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TITLE 3—THE PRESIDENT

PROCLAMATION 3173

NATIONAL FARM SAFETY WEEK, 1957

BY THE PRESIDENT OF THE UNITED STATES

OF AMERICA

A PROCLAMATION

WHEREAS farm accidents each year inflict a heavy loss upon the economy of the Nation and cause untold suffering among our rural population; and

WHEREAS the death toll from farm-work accidents last year was higher than that in any other major industry; and

WHEREAS the health, prosperity, and welfare of the Nation's farm families are of vital concern to all citizens; and

WHEREAS the effect of accident-prevention programs has indicated that our rural residents, through attention to safety education, can greatly reduce accidents and the resultant loss and suffering:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby call upon the people of the Nation to observe the week beginning July 21, 1957, as National Farm Safety Week, and I urge all farm families and farm workers to join in a continuing campaign designed to prevent needless accidents in their homes, on their farms, and along their highways.

I also request all persons and organizations interested in the welfare of farm people to support and participate in this special endeavor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 14th day of March in the year of our Lord nineteen hundred and [SEAL] fifty-seven, and of the Independence of the United States of America the one hundred and eighty-first.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Acting Secretary of State.

[F. R. Doc. 57-2164; Filed, Mar. 18, 1957; 12:22 p. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Lemon Reg. 677, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 21 F. R. 4393), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in the State of California or in the State of Arizona.

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 953.784 (Lemon Regulation 677, 22 F. R. 1546) are hereby amended to read as follows:

(ii) District 2: 251,100 cartons.

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CFR SUPPLEMENTS

(As of January 1, 1957)

The following Supplement is now available:

Title 32, Parts 700-799 (\$0.50)

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Order from Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: March 14, 1957.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 57-2076; Filed, Mar. 18, 1957;
8:51 a. m.]

TITLE 16—COMMERCIAL
PRACTICES

Chapter I—Federal Trade Commission

[Docket 6649]

PART 13—DIGEST OF CEASE AND DESIST
ORDERS

PHILLIP'S FURS

Subpart—Concealing or obliterating law required and informative marking: § 13.516 Fur products tags or identification. Subpart—Invoicing products falsely: § 13.1108 Invoicing products falsely: Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1190 Composition: Fur Products Labeling Act. § 13.1212 Formal regulatory and statutory requirements: Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 Formal regulatory and statutory requirements: Fur Products Labeling Act; § 13.1880 Old, used, re-claimed, or reused as unused or new: Fur Products Labeling Act. Subpart—Using misleading name—Goods: § 13.2280 Composition: Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U. S. C. 45, 69f) [Cease and desist order, Phil H. Green trading as Phillip's Furs, Dallas, Texas, Docket 6649, Feb. 28, 1957]

In the Matter of Phil H. Green, an In-
dividual Trading as Phillip's Furs

This proceeding was heard by a hear-
ing examiner on the complaint of the

Commission charging a furrier in Dallas, Tex., with violating the Fur Products Labeling Act through removing and mutilating required labels, deceptively identifying names of animals or naming other animals than those producing the fur in certain products, failing to label products, failing to include on labels the information required by the act, and by invoicing which failed to use the term "secondhand used fur" where applicable and which failed in other respects to comply with the law.

Following entry of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on February 28 the decision of the Commission. The order to cease and desist is as follows:

It is ordered, That the respondent Phil H. Green, an individual trading as Phillip's Furs, or under any other trade name, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution of fur products in commerce, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur", and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Removing, or mutilating, or causing or participating in the removal or mutilation of, labels required to be affixed to fur products, prior to the time the fur products are sold and delivered to the ultimate purchaser of such products.

2. Misbranding fur products by:

a. Falsely or deceptively labeling or otherwise identifying any such product as to the name of the animal or animals that produced the fur from which such product was manufactured.

b. Failing to affix labels to fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(2) That the fur product contains or is composed of used fur when such is a fact;

(3) That the fur product contains or is composed of bleached, dyed, or artificially colored fur when such is a fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur when such is a fact;

(5) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(6) The name of the country of origin of any imported furs used in the fur product;

c. Setting forth on labels attached to fur products the name or names of any animal or animals other than the name or names provided for in paragraph 2b (1) above.

d. Setting forth on labels attached to fur products:

(1) Required information which is abbreviated.

(2) Required information which is mingled with non-required information.

(3) Required information in handwriting.

e. Failing to set forth on labels the information required by § 301.36 (Rule 36) of the rules and regulations promulgated under the Fur Products Labeling Act, when a fur product is composed of two or more sections containing different animal furs.

f. Failing to affix labels to fur products showing item numbers required under § 301.40 (Rule 40) of the rules and regulations.

g. Failing to affix labels to fur products to comply with the minimum size requirement of 1 3/4" x 2 3/4", as required by § 301.27 (Rule 27) of the said rules and regulations.

3. Falsely or deceptively invoicing fur products by:

a. Failing to show:

(1) The name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur and such qualifying statements as may be required pursuant to section 7 (c);

(2) That the fur product contains or is composed of used fur, when such is a fact;

(3) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of the paws, tails, bellies, or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoice;

(6) The name of the country of origin of any imported furs contained in a fur product.

b. Setting forth required information in abbreviated form.

c. Failing to use the term "second hand used fur" where applicable, as required by §§ 301.21 and 301.23 (Rules 21 and 23) of the aforesaid rules and regulations.

d. Failing to show the item number or mark of a fur product on an invoice pertaining to such product, as required by § 301.40 (Rule 40) of the rules and regulations.

4. Falsely or deceptively advertising fur products through the use of any advertisement, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

a. Fails to disclose:

(1) The name or names of animal or animals which produced the fur or furs contained in the fur products as set forth in the Fur Products Name Guide.

(2) That the fur products are composed of used fur when such is the fact.

(3) That the fur products contain or are composed of bleached, dyed, or

otherwise artificially colored fur when such is the fact.

b. Uses the name or names of an animal or animals other than the name or names specified in the Fur Products Name Guide or prescribed by the rules and regulations.

c. Fails to use the term "second hand used" fur where applicable, as required by §§ 301.21 and 301.23 (Rules 21 and 23) of the said rules and regulations.

d. Represents directly or by implication:

(1) That the regular or usual price of any fur product is any amount which is in excess of the price at which the respondent has usually and customarily sold such product in the recent regular course of his business.

(2) The value of fur products, when such claims and representations are not true in fact.

(3) That stock of a business is in a state of liquidation when such is not the fact.

5. Making use of comparative prices or percentage savings claims in advertising unless such compared prices or claims are based upon the current market value of the fur product or upon a bona fide compared price at a designated time.

6. Making price claims or representations of the type referred to in paragraphs 4d (1) and (2) and 5 above unless there are maintained by respondent full and adequate records disclosing the facts on which such claims or representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is further ordered. That the respondent, Phil H. Green, shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist contained in the aforesaid initial decision.

Issued: February 28, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 57-2050; Filed, Mar. 18, 1957;
8:46 a. m.]

TITLE 10—ATOMIC ENERGY

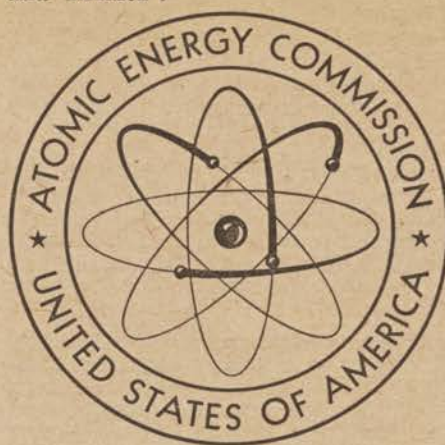
Chapter I—Atomic Energy Commission

PART 1—SEAL

Pursuant to section 21 of the Atomic Energy Act of 1954, Public Law 703, the Atomic Energy Commission has adopted an official seal the design of which accompanies and is made a part of this document, and which is described as follows:

§ 1.1 *Seal.* On a dark blue disk, a stylized atomic symbol consisting of the nucleus, in orange red, surrounded by four electrons tracing their orbits in gold. On a light blue annulet edged in gold the inscription "ATOMIC ENERGY

COMMISSION" in upper portion. In lower portion, "UNITED STATES OF AMERICA". A five-pointed gold star appears between the words "ATOMIC" and "UNITED" and another between the words "COMMISSION" and "AMERICA".



(Sec. 1, 68 Stat. 924, as amended; 42 U. S. C. 2031)

Dated at Washington, D. C., this 8th day of March 1957.

R. W. COOK,
Deputy General Manager.

[F. R. Doc. 57-2008; Filed, Mar. 18, 1957;
8:45 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 686—LEATHER, LEATHER GOODS, SHOE, AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO

PART 704—LEATHER, LEATHER GOODS, AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO, MINIMUM WAGE ORDER

REVOCATION AND WAGE ORDER

On January 5, 1957, pursuant to section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), the Secretary of Labor by Administrative Order No. 475 (22 F. R. 150), appointed, convened and gave notice of the hearing of Industry Committee No. 28-A for the Leather, Leather Goods, Shoe, and Related Products Industry in Puerto Rico. The committee was directed to recommend the minimum rates of wages to be paid under section 6 (c) of the act to employees of its industry who are engaged in commerce or in the production of goods for commerce.

Subsequent to an investigation and a hearing, conducted pursuant to the notice, the Committee filed with the Administrator a report containing its findings with respect to the matter referred to it. Accordingly, as authorized and required by section 8 of the act and General Order No. 45-A of the Secretary (15 F. R. 3290), (1) the recommendations of this committee are hereby published in the following amendments to the Code of Federal Regulations, and (2) effective April 4, 1957, Parts 686 and 704 of Title 29, Code of Federal Regulations, are hereby revoked and a new Part 686, entitled Leather, Leather Goods, Shoe, and Re-

lated Products Industry in Puerto Rico is hereby issued to read as follows:

Sec.
686.1 Definition of the industry.
686.2 Wage rates.
686.3 Notices.

AUTHORITY: §§ 686.1 to 686.3 issued under sec. 8, 52 Stat. 1064, as amended; 29 U. S. C. 208. Interpret or apply sec. 5, 52 Stat. 1062, as amended; 29 U. S. C. 205.

§ 686.1 *Definition of the industry.* The leather, leather goods, shoe, and related products industry in Puerto Rico to which this part shall apply, is defined as follows: (a) The curing, tanning, or other processing of hides, skins, leather or furs, and the manufacture of products therefrom; (b) the manufacture from artificial leather, fabric, or similar materials of suitcases, brief cases, wallets, billfolds, coin purses, card cases, key cases, cigarette cases, watch straps, pouches, tie cases, toilet kits, checkbook covers, and like articles; (c) the manufacture of baseballs and softballs covered with leather, artificial leather, fabric or similar materials; (d) the manufacture or partial manufacture of footwear from any material and by any process except knitting, crocheting, vulcanizing of the entire article, or vulcanizing of the sole to the upper, including, but without limitation, shoes, slippers, sandals, moccasins, boots, boot tops, puttees (except spiral puttees), athletic shoes, burial shoes, and shoes completely rebuilt in a shoe factory; (e) the manufacture from any material (except rubber or composition of rubber, molded to shape) of cut stock and findings for footwear, including, but without limitation, heels, linings, vamps, quarters, outsoles, midsoles, insoles, taps, lifts, rands, toplifts, bases, shanks, boxtoes, counters, stays, stripping, sock linings, heel pads, pasted shoe stock, and bows, ornaments and trimmings; and (f) the manufacture of boot and shoe patterns: *Provided, however,* That this definition shall not include the manufacture of bows, ornaments and trimmings by a manufacturer not otherwise covered by this definition; the manufacture of woodheel blocks; and the manufacture of any products included in the button, buckle, and jewelry industry, the fabric and leather glove industry, the men's and boys' clothing and related products industry, and the needlework and fabricated textile products industry, as defined in the wage orders for those industries in Puerto Rico.

§ 686.2 *Wage rates.* (a) Wages at a rate of not less than 85 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the leather, leather goods, shoe, and related products industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce, and who is engaged in the hide curing classification, which is defined as the salting and other curing of hides and skins and operations incidental thereto.

(b) Wages at a rate of not less than 50 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the leather, leather goods,

shoe, and related products industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce, and who is engaged in the leather tanning and processing classification which is defined as the tanning or other processing of hides, skins, leather, or furs, except the activities included in the hide curing classification, as defined herein, and except the processing of such material in the course of the fabrication of products therefrom.

(c) Wages at a rate of not less than 45 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the leather, leather goods, shoe, and related products industry in Puerto Rico who is engaged in Commerce or in the production of goods for commerce, and who is engaged in the small leather goods classification which is defined as the manufacture from leather, artificial leather, fabric, or similar materials of wallets, billfolds, coin purses, card cases, key cases, cigarette cases, watch straps, pouches, tie cases, toilet cases, toilet kits, checkbook covers, and like articles.

(d) Wages at a rate of not less than 49 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the leather, leather goods, shoe, and related products industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce, and who is engaged in the baseball and softball classification which is defined as the manufacture and partial manufacture of baseballs and softballs covered with leather, artificial leather, fabric or similar materials.

(e) Wages at a rate of not less than 51 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the leather, leather goods, shoe, and related products industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce, and who is engaged in the general classification, which is defined as the manufacture or partial manufacture of footwear from any material and by any process, except knitting, crocheting, vulcanizing of the entire article, or vulcanizing of the sole to the upper; the manufacture from any material (except rubber or composition of rubber, molded to shape) of cut stock and findings for footwear; and the manufacture of boot and shoe patterns; the manufacture of athletic gloves, ring binders, portfolios, brief cases, luggage and all products and activities included in the leather, leather goods, shoe, and related products industry in Puerto Rico, as defined herein, except those included in the hide curing classification, the leather tanning and processing classification, the small leather goods classification, and the baseball and softball classification, as defined herein.

§ 686.3 *Notices.* Every employer subject to the provisions of § 686.2 shall post in a conspicuous place in each depart-

ment of his establishment where employees subject to the provisions of § 686.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the United States Department of Labor, and shall give such other notice as the Administrator may prescribe.

Signed at Washington, D. C., this 13th day of March 1957.

NEWELL BROWN,
Administrator,
Wage and Hour Division.

[F. R. Doc. 57-2075; Filed, Mar. 18, 1957;
8:50 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter E—Organized Reserves

PART 562—RESERVE OFFICERS' TRAINING CORPS

MISCELLANEOUS AMENDMENTS

In § 562.12 (a), revise subparagraph (1) and in § 562.24, revise paragraph (e), to read as follows:

§ 562.12 *Classification of ROTC units.*
* * *

(a) *Senior divisions.* * * *
(1) *Class MC (military colleges).* (i) For the purposes of qualifying as a military college within the meaning of subsection 6 (a), Universal Military Training and Service Act, as amended: Units established at essentially military colleges or universities which confer baccalaureate or graduate degrees; at which the average age of the students at the time of graduation is not less than 21 years; which require all students to pursue military training throughout the undergraduate course and require all members of the ROTC to be habitually in uniforms; which constantly maintain military discipline; which have as objectives the development of the student by means of military training and the regulation of his conduct in accordance with disciplinary principles.

(ii) In the application of the above definition and criteria for the qualification of an institution as class MC (military college), exceptions to the provisions that all undergraduate students pursue military training may be made for the following categories of male undergraduate students:

(a) Foreign nationals.
(b) Individuals who are not liable for induction by virtue of having honorably completed active training and service.
(c) Students physically disabled to the extent that they are incapable of pursuing the required military training.
(d) Students who are pursuing special undergraduate courses in excess of 4 years, after completion of the required military training.

(iii) Exceptions may be made also for institutions that admit female students, providing that all other requirements

are met with respect to the male undergraduate student body.

(iv) In order to qualify for the class MC special rate of commutation in lieu of uniforms, as announced annually, a designated military college must meet the following requirements:

(a) Organize and maintain within its undergraduate student body a self-contained corps of cadets in which not less than 300 male students are enrolled as members at all times throughout the academic year. All members of such corps of cadets will be in appropriate uniform at all times while on the campus; be housed in barracks separate from nonmembers of the corps of cadets; and be under constantly maintained military discipline on a 24-hour-per-day, 7-days-a-week basis.

(b) Enroll all physically qualified members of such corps of cadets except foreign nationals, individuals who are not liable for induction by virtue of having honorably completed active training and service, and individuals whose enrollment is precluded by other provisions of this part, in the basic course of the ROTC of the appropriate service. Require members of the corps of cadets upon completion of the basic course to apply, and if qualified, to be enrolled in the advanced course at the proper time.

(v) Only those members of the corps of cadets meeting the requirements set forth in subdivision (iv) of this subparagraph who are enrolled in the basic and advanced course of the ROTC will be entitled to the special class MC rate of commutation. Institutions designated as military colleges may enroll in the ROTC those students who for various reasons are not required to be members of the corps of cadets. Such students may receive only the standard commutation rate prescribed annually for students in class CC institutions.

§ 562.24 *Discharge or release from ROTC program.* * * *

(e) The professor of military science and tactics will complete item 22, DA Form 131 (ROTC Students' Record), for each student disenrolled from the senior division of MST-5 and -6 course of the military schools division at the time of disenrollment from the program. Upon receipt of request from another service of the Armed Forces for information concerning disenrollment of an ROTC student, The Adjutant General will forward the request to the appropriate ROTC unit. The professor of military science and tactics will complete a copy of DD Form 785 (Record of Disenrollment from Officer Candidate-Type Training) for each request received and forward to the requesting service.

[C 8, AR 145-350, Feb. 8, 1957] (Sec. 3012, 70A Stat. 157; 10 U. S. C. 3012)

[SEAL] HERBERT M. JONES,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 57-2041; Filed, Mar. 18, 1957;
8:45 a. m.]

TITLE 46—SHIPPING

Chapter II—Federal Maritime Board,
Maritime Administration, Department of CommerceSubchapter B—Regulations Affecting Maritime
Carriers and Related Activities

[Gen. Order 70, as amended]

PART 243—COMMERCIAL FORWARDING OF
CERTAIN EXPORTS FOR FOREIGN RELIEF
AND REHABILITATION

REVOCATION OF PART

Part 243 (General Order 70, as amended), is hereby revoked.

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Dated: March 5, 1957.

CLARENCE G. MORSE,
Maritime Administrator.

[F. R. Doc. 57-2015; Filed, Mar. 18, 1957;
8:45 a. m.]

PART 244—BUSINESS PRACTICES OF FREIGHT
FORWARDERS

STATEMENT OF POLICY

The Maritime Administrator has revoked Maritime Commission General Order 70 (Part 243),¹ and, simultaneously with such revocation, has established the following policy:

The Maritime Administrator finds that it is appropriate and in the public interest to maintain a list of foreign freight forwarders to assist other government agencies in selecting freight forwarders to handle shipments where such agencies decide that the services of forwarders are necessary. The list will include the names and business addresses of foreign freight forwarders who the Maritime Administrator finds:

1. Are American citizens as defined in section 2 of the Shipping Act, 1916, as amended (46 U. S. C. 802);
2. Are cleared as to security requirements;
3. Are registered with the Federal Maritime Board under General Order 72 (46 CFR Part 244); and
4. Have applied to the Maritime Administrator for inclusion on the list.

The initial list shall include all United States citizen forwarders whose names appeared on the list prepared by the Maritime Administration under General Order 70 as of its revocation date.

Foreign freight forwarders who meet the requirements set forth above, and who desire to be included on the list, shall apply in writing to the Secretary, Maritime Administration, Washington 25, D. C., and shall accompany such application with:

1. A copy of their most recent application to the Federal Maritime Board for registration under General Order 72 (46 CFR Part 244) with any amendment necessary to bring it up to date; and
2. An affidavit stating that the applicant is a citizen of the United States as

defined in section 2 of the Shipping Act, 1916, as amended (46 U. S. C. 802).

If the forwarder is an individual, the affidavit of citizenship shall state whether he is a citizen of the United States by birth or naturalization, and the facts upon which that statement is based, such as the date and place of birth or the date and number of the naturalization certificate. If the forwarder is a partnership, each partner shall furnish an affidavit of citizenship giving the same information as is required of an individual. If the forwarder is a corporation, the affidavit shall be in the form prescribed by the Maritime Administrator, and published in the Federal Register of October 27, 1956, 21 F. R. 8240.

The Maritime Administrator reserves the right to request such additional information as he considers to be necessary or desirable, in order to determine the eligibility of the applicant for inclusion on the list.

Any foreign freight forwarder who desires may have his name removed from the list upon written request to the Secretary, Maritime Administration.

Copies of the list of forwarders maintained pursuant to this Statement of Policy may be obtained upon request from the Secretary, Maritime Administration, Washington 25, D. C.

(Sec. 204 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Dated: March 5, 1957.

[SEAL] CLARENCE G. MORSE,
Maritime Administrator.

[F. R. Doc. 57-2017; Filed, Mar. 18, 1957;
8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications
Commission

[FCC 57-249; Rules Amdts. 2-29, 9-9]

PART 2—FREQUENCY ALLOCATIONS AND
RADIO TREATY MATTERS; GENERAL RULES
AND REGULATIONS

PART 9—AVIATION SERVICES

CHANNEL SPACING FOR VHF AIR TRAFFIC
CONTROL OPERATIONS

In the matter of amendment of §§ 9.312, 9.331, and 9.411, Part 9, Aviation Services, and § 2.104 (a) (5), Part 2 Frequency Allocations and Radio Treaty Matters, to provide 100 kc channel spacing for VHF air traffic control operations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 13th day of March 1957.

The Commission having under consideration the amendment of Parts 2 and 9 of its rules to provide 100 kc channel spacing for VHF air traffic control operations; and

It appearing that the Civil Aeronautics Administration (CAA) has requested the Commission to make provisions for the use of 100 kc-spaced VHF air traffic control frequencies by civil aircraft, stating that the loading of

existing 200 kc-spaced frequencies necessitates immediate implementation of additional frequencies at CAA ground stations, and

It further appearing that the Aircraft Owners and Pilots Association (AOPA) has submitted a similar request for Commission action; and

It further appearing that Aeronautical Radio, Inc. (ARINC) also has requested, on behalf of civil aviation interests, that the Commission amend § 9.312 of its rules to permit employment of 100 and 50 kc-spaced frequencies by FCC-licensed aircraft; and

It further appearing that insofar as ARINC's request for 100 kc. channel spacing is concerned, use by civil aircraft of such frequencies in areas of high traffic density, is a matter of urgency which is justified on the basis of information presently available; and

It further appearing that inasmuch as immediate air traffic control operation on 50 kc-spaced channels is not contemplated, and since questions of equipment capability and band-edge frequency utilization are involved, the part of the ARINC request concerning 50-kc-spaced channels can be handled more appropriately in a later proceeding; and

It further appearing that the public interest would be served by permitting FCC-licensed aircraft to commence operation on the new 100 kc-spaced air traffic control frequencies as they are implemented at CAA ground stations; and

It further appearing that since the additional frequencies are within the existing VHF air traffic control band, holders of current aircraft radio station licenses may, upon the effective date of this order, commence the use of such frequencies without applying for or obtaining specific authorization therefor, and

It further appearing that issuance of Notice of Proposed Rule Making pursuant to section 4 (a) of the Administrative Procedures Act would unnecessarily delay the timely adoption of the amendments herein ordered and would not therefore serve the public interest; and

It further appearing that since adoption of the amendments herein ordered imposes no new requirement on any applicant or licensee, but rather makes additional frequencies available, the use of which is directly related to the safety of life property in the air, this order may be made effective without delay in accordance with section 4 (c) of the Administrative Procedures Act; and

It further appearing that authority for issuance of this Order is contained in section 303 (b), (c), and (r) of the Communications Act of 1934, as amended:

It is ordered, That effective March 13, 1957, §§ 9.312, 9.331, 9.411 and 2.104 (a) (5) of the Commission's rules are amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: March 14, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

¹ See Part 243 of this chapter, F. R. Document 57-2015, *supra*.

1. Delete paragraph (h) of § 9.312, and substitute a new paragraph (h) to read as follows:

(h) These frequencies are available for air traffic control operations:

118.1 A	119.8	121.8	125.2
118.2	119.9	123.7	125.3
118.3	120.0	123.8	125.4
118.4	120.1	123.9	125.5
118.5	120.2	124.0	125.6
118.6	120.3 B	124.1	125.7
118.7	120.4	124.2	125.8
118.8	120.5	124.3	125.9
118.9	120.6	124.4	126.0
119.0	120.7	124.5	126.1 E
119.1	120.8	124.6	126.2 E
119.2	120.9	124.7	126.3 E
119.3	121.0	124.8	126.4
119.4	121.1	124.9	126.5
119.5	121.2	125.0	126.6
119.6	121.3 C	125.1	126.7 F
119.7	121.7 D		

A—Primarily for international operations.
B—Primarily for communications with air Route Traffic Control Centers.

C—For communication with low activity airdrome control stations.

D—Available on a secondary basis to its primary use as an airport utility frequency.

E—Available on a non-interference basis to government use of 126.18 Mc.

F—For communication with Interstate Airway Communication Stations.

2. Delete paragraphs (b) and (c) of § 9.331, and substitute new paragraphs (b) and (c) to read as follows:

(b) 122.1, 122.2 and 122.3 megacycles: Private aircraft to airway communication stations.

(c) 122.5, 122.6, 122.7 and 122.9 megacycles: Private aircraft to airdrome control stations.

3. Delete paragraph (a) of § 9.411, and substitute a new paragraph (a) to read as follows:

118.1 A	119.8	121.7 D	125.1
118.2	119.9	121.8	125.2
118.3	120.0	121.9	125.3
118.4	120.1	123.8	125.4
118.5	120.2	123.9	125.5
118.6	120.3 B	124.0	125.6
118.7	120.4	124.1	125.7
118.8	120.5	124.2	125.8
118.9	120.6	124.3	125.9
119.0	120.7	124.4	126.0
119.1	120.8	124.5	126.1 E
119.2	120.9	124.6	126.2 E
119.3	121.0	124.7	126.3 E
119.4	121.1	124.8	126.4
119.5	121.2	124.9	126.5
119.6	121.3 C	125.0	126.6
119.7			

A—Primarily for international operations.
B—Primarily for assignment to Air Route Traffic Control Centers.

C—For assignment to low activity airdrome control stations only.

D—Available on a secondary basis to its primary use as an airport utility frequency.

E—Available on a noninterference basis to government use of 126.18 Mc.

5. Amend the indicated portions of § 2.104 (a) (5) pertaining to the frequency bands 121.7 Mc through 122.7 and 123.7-131.9 Mc to read as follows:

7	8	9	10	11
			121.7	Aeronautical utility land; Aeronautical utility mobile.
			121.8	Do.
			121.9	Do.
			122.1	Private aircraft.
			122.2	Do.
			122.3	Do.
			122.4	Do.
			122.5	Do.
			122.6	Do.
			122.7	Do.
			123.7-131.9 (NG 49)	Aeronautical Mobile.

[F. R. Doc. 57-2066; Filed, Mar. 18, 1957; 8:49 a. m.]

[FCC 57-240; Rules Amdt. 3-60]

PART 3—RADIO BROADCAST SERVICES

MISCELLANEOUS AMENDMENTS

In the matter of amendment of §§ 3.183 and 3.190 of the Commission's rules and regulations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 13th day of March 1957;

The Commission has before it for consideration the deletion of Figure 4 of § 3.190 and the reference to Figure 4 in § 3.183 (c).

Figure 4 of § 3.190 is a reproduction of a map depicting ground conductivities in Canada, prepared by the Department of Transport of that country, and submitted to the Commission on February 18, 1948. It was incorporated in the Commission's Technical Standards on June 29, 1949, after permission had been obtained from the Department.

Appendix H to the North American Regional Broadcasting Agreement, Washington, D. C., 1950 (NARBA) is a map of ground conductivities in countries in the North American Region. The Canadian portion of this map was intended to be an accurate reproduction of the data on the original Canadian map (i. e., Figure 4). However, it appears that the NARBA map departs from the original in such degree that the results of determinations involving ground conductivities in Canada may differ substantially, depending upon which of the two conductivity maps is employed.

It had previously been assumed that Canada was continuing to utilize its original map, but the Commission has recently been advised by the Canadian Department of Transport that Appendix H of the NARBA is employed by Canada in all cases involving conductivities in that country.

It is evident that the continued use of Figure 4 is inappropriate, and can lead to international conflicts with respect to standard broadcasting assignments. For this reason we are deleting Figure 4 of § 3.190 and the reference thereto in § 3.183 (c). In place of Figure 4 we are indicating the proper source of information regarding ground conductivities in Canada, and for the first time

in the Commission's rules, this reference provides a statement of bases for acceptable estimates of conductivity in Mexico and Cuba.

Because of the informational nature of the proposed changes, notice and public procedure hereon as prescribed by section 4 (a) of the Administrative Procedure Act are unnecessary.

In view of the above: *It is ordered*, That, pursuant to authority contained in sections 303 (f) and (r) of the Communications Act of 1934, as amended, §§ 3.183 and 3.190 of the Commission's rules and regulations are amended, effective March 20, 1957, as follows:

1. Delete the last three sentences of § 3.183 (c) and substitute the following parenthetical expression: "(for determinations of interference and service requiring a knowledge of ground conductivities in Canada and Mexico, Appendix H to the North American Regional Broadcasting Agreement, Washington, D. C. 1950, may be used. Where different conductivities appear in the maps of the several countries on different sides of the border not explained by geophysical cleavages, such cleavages are to be considered as real. A uniform ground conductivity of 10 millimhos per meter may be assumed for Cuba)."

2. Delete Figure 4 of § 3.190.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: March 14, 1957.

FEDERAL COMMUNICATIONS

COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2067, Filed, Mar. 18, 1957; 8:49 a. m.]

[Docket No. 11894; FCC 57-241]

PART 62—APPLICATIONS TO HOLD INTERLOCKING DIRECTORATES

In the matter of amendment of Part 62 of the Commission's rules governing applications under section 212 of the act to hold interlocking directorates; Docket No. 11894.

1. On December 21, 1956, the Commission released a notice of proposed rule making proposing to amend Part 62 of its Rules to implement amendments to section 212 of the Communications Act of 1934, which became effective on August 2, 1956 (Pub. Law. No. 914), and which provide that the Commission may authorize persons to hold the position of officer or director in more than one carrier subject to the Act, without regard to the other requirements of this section, where it has found that one of the two or more carriers directly or indirectly owns more than 50 percent of the stock of the other or others, or that 50 percent or more of the stock of all such carriers is directly or indirectly owned by the same person. This notice was published in the FEDERAL REGISTER on December 28, 1956 (F. R. 10414) in accordance with Section 4 (a) of the Administrative Pro-

cedure Act. Interested persons were given until February 1, 1957, to file comments on the proposed amendments and ten days thereafter were allowed for filing comments or briefs in reply to the original comments.

2. The time for filing comments regarding the above-mentioned proposed rule making has expired. The Commission received timely comments from the American Telephone and Telegraph Company (AT&T) on behalf of itself and the Bell System Associated Companies. No comments or briefs in reply to the original comments were received, and no one requested a public hearing in this matter.

3. AT&T generally supported the proposed amendments but suggested minor changes as discussed below.

4. AT&T observed that the proposed text of § 62.2 (a) appears to include a number of positions which would not ordinarily be considered as officers. AT&T suggested defining "officer or director" to mean any person performing any of the duties ordinarily performed by a president, vice president, secretary, treasurer or other officer of a carrier. While this suggestion has some merit, we feel that there is a decided advantage in continuing to list the other positions which may, in certain carriers, also be those of officers. In order to make it clear that persons holding such other positions must secure authorization, where the position includes responsibility to act as officer, the phrase "or other officers of a carrier such as" is being inserted before the position "general counsel".

5. AT&T suggested that the word "voting" be placed before the word "stock" in § 62.2 (c). "Commonly owned carriers" would then be defined as two or more carriers, one of which directly or indirectly owns more than 50 percent of the voting stock of the other carrier or carriers, etc. It is to be noted that section 212 as amended makes no distinction as to whether the stock, on which the Commission may make a finding as to ownership, is voting stock or non-voting stock. It is also to be noted that under § 62.12, as proposed, applicants desiring a finding as to stock ownership must submit considerable data with respect to stock owned directly or indirectly, the total amount of outstanding stock of the carrier(s) involved and the voting rights of each category of stock. On the basis of the information so supplied, the Commission should be in position to make a finding as to whether the stock ownership meets the required minima specified in section 212. Pending actual experience in making such findings with respect to actual ownership relations, it is not possible to predict what weight the Commission will give, if any, to stock voting rights in making findings as to stock ownership. It does not appear that a finding of stock ownership will depend solely, in every case, upon the amount of voting stock owned, and therefore it appears inappropriate to make the insertion suggested by AT&T. Accordingly that suggestion is not being adopted.

6. AT&T suggested that, for editorial reasons, § 62.3 (b) should include an appropriate reference to § 62.12. That suggestion is being adopted.

7. AT&T pointed out that there is an apparent discrepancy between § 62.11 (g) and the footnote thereto and suggested inserting in § 62.11 (g) the phrase "in which the applicant has a financial interest" after the words "every corporation". That suggestion is being adopted and, to further clarify § 62.11 (g), the footnote is being incorporated in the text thereof, and certain editorial changes are being made for conformity.

8. AT&T suggested that the proposed text of § 62.21 be revised to make it clear that a person authorized to hold interlocking positions in three or more carriers would lose such authority only with respect to positions held in carriers which cease to be "commonly owned" carriers and that such person would continue to be authorized to hold interlocking positions in each of the carriers which continue as commonly owned carriers. That suggestion is being adopted.

9. AT&T pointed out that the proposed § 62.26 (b) would require that if a common ownership relation is ended, the applicant must not only notify the Commission of such ownership change but also of the names of the persons and the positions for which authorization became effective after a formal finding was made on said application. AT&T commented that this requirement would prove burdensome, since it would require information as to interlocking directors who had long since ceased to be such, and that the requirement could be omitted on the grounds that the provisions of section 212 of the act and proposed § 62.21 of the Commission's rules would automatically cancel such authority to hold interlocking directorates where common ownership relations are ended. Since the penalty provisions of section 212 are applicable where interlocking duties are performed without authorization, irrespective of whether the reporting requirements of § 62.26 (b) are met by a given applicant, the Commission agrees that such reporting requirement is not necessary. Accordingly, the proposed § 62.26 (b) is being deleted.

It appearing that the proposed Rule Making proceeding in this matter has indicated the desirability of adopting these amendments substantially as proposed except as outlined herein:

It is ordered, That, under the authority contained in sections 4 (i) and 212 of the Communications Act of 1934, as amended, the Commission's rules and regulations are amended as set forth below, effective April 22, 1957.

Adopted: March 13, 1957.

Released: March 14, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. Part 62 is revised to read as follows:

Sec.	GENERAL
62.1	Scope.
62.2	Definitions.
62.3	Method of securing authorization.

CONTENTS OF APPLICATIONS

Sec. 62.11	Information required by application filed pursuant to § 62.3 (a).
62.12	Information required by application filed pursuant to § 62.3 (b).

ADMINISTRATIVE REGULATIONS

62.21	Authorization to hold interlocking directorates in commonly owned carriers.
62.22	Information in previous applications; incorporated by reference.
62.23	Signature; verification.
62.24	Form of application; number of copies; size of paper; etc.
62.25	Additional or different positions with same companies.
62.26	Change in status; Commission to be informed.

AUTHORITY: §§ 62.1 to 62.26 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 212, 48 Stat. 1074; 47 U. S. C. 212.

GENERAL

§ 62.1 *Scope.* No person may hold the position of officer or director in more than one carrier subject to the Communications Act of 1934, as amended, unless duly authorized to do so pursuant to the regulations set forth in this part.

§ 62.2 *Definitions.* As used in this part, the term:

(a) "Officer or director" shall include the duties, or any of the duties, ordinarily performed by a director, president, vice president, secretary, treasurer, or other officer of a carrier, such as general counsel, general solicitor, general attorney, comptroller, general auditor, general manager, general commercial manager, chief engineer, general superintendent, general land and tax agent, or chief purchasing agent;

(b) "Interlocking director" shall mean a person who performs the duties of "officer or director" in more than one carrier subject to the Communications Act of 1934, as amended; and

(c) "Commonly owned carriers" shall mean two or more carriers, one of which directly or indirectly owns more than 50 percent of the stock of the other carrier or carriers, or 50 percent or more of whose stock is owned directly or indirectly by the same person.

§ 62.3 *Method of securing authorization.* (a) Any person who has been designated to be an interlocking director may seek authorization from the Commission to serve in such capacity by filing on his own behalf an application in accordance with the provisions of § 62.11. (b) Any person who has been designated to be an interlocking director of commonly owned carriers may perform the duties thereof provided the requirements of §§ 62.12 and 62.21 have been met.

CONTENTS OF APPLICATION

§ 62.11 *Information required by application filed pursuant to § 62.3 (a).* Each application shall state the following:

(a) The full name, occupation, business address, place of residence, and post-office address of the applicant;

(b) A specification of every carrier of which the applicant holds stock, bonds, or notes, individually, as trustee, or

otherwise; and the amount of, and an accurate description of the securities owned or held by the applicant, of each carrier for which authority to act is sought. Whenever it is intended to represent on the board of directors of any carrier securities other than those owned by the applicant, the application shall describe such securities, state the character of representation, the name of the beneficial owner or owners and the general nature of the business conducted by such owner or owners;

(c) Each and every position with any carrier which is held by the applicant at the time of the application, and which he seeks authority to hold, together with the date and manner of his election or appointment thereto and, if he has entered upon the performance of his duties in any such position, the nature of the duties so performed and the date when he first entered upon their performance;

(d) As to each carrier covered by the requested authorization, whether it is (1) an operating carrier, (2) a lessor company, or (3) any other person or corporation organized for the purpose of engaging in communication by wire or radio subject to the act. If any such carrier neither operates nor owns any apparatus nor provides service for communication by wire or radio, which is subject to the act, there shall be filed with the application, as a part thereof, a copy of such carrier's charter or certificate or articles of incorporation, with amendments to date. When such copy has once been filed with the Commission, reference thereto, with amendments, if any, will suffice;

(e) A full statement of pertinent facts relative to any carrier which does not make annual reports to the Commission, authorization for a position with which is sought;

(f) Full information as to the relationship, operating, financial, competitive or otherwise, existing between the carriers covered by the requested authorization;

(g) Every business corporation—industrial, financial, or other—of which the applicant is an officer or director, trustee, receiver, attorney, or agent and also every corporation in which the applicant has a financial interest engaged in communications or in furnishing equipment, supplies, research, services, finances, credit, or personnel, directly or indirectly, to any communication company in which the applicant has a financial interest, together with the general character of the business conducted by such corporation, and the amount and description of the applicant's interest. The Commission will regard the following as substantial compliance:

(1) If the applicant is an officer, director, trustee, receiver, attorney or agent of any business corporation he must make a complete disclosure of such position and state the general character of the business conducted by such corporation; and

(2) If the applicant has a financial interest in any corporation furnishing equipment, supplies, research, services, finances, credit, or personnel, directly or

indirectly, to any communication company, he must make a complete showing of his interest and state the general character of the business conducted by such corporation, only in cases where 5 percent or more of such corporation's annual gross business consists of furnishing equipment, supplies, research, services, finances, credit, and/or personnel, directly or indirectly, to communications companies.

(3) If the applicant holds a position named in subparagraph (1) of this paragraph in a corporation described in subparagraph (2) of this paragraph, he must make the disclosures called for in both subparagraphs (1) and (2) of this paragraph.

(4) Regularly licensed and practicing attorneys will not be required under subparagraph (1) of this paragraph to show clients represented by them, unless such client corporations are engaged in conducting a communications service as a common carrier or come within the description in subparagraph (2) of this paragraph.

(h) Whether or not, since August 18, 1934, the applicant has, as director or officer of any carrier subject to the act, received for his own benefit, directly or indirectly, any money or thing of value in respect of negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or has shared in any of the proceeds thereof, or has participated in the making or paying of any dividends of such carrier from any funds properly included in capital account. If the answer to this question is in the affirmative, the applicant shall state the amount or amounts received from such transactions, and the reasons to justify such payments;

(i) The reasons, fully, why the granting of the authority sought will not affect adversely either public or private interests; and

(j) Whether or not any other application for similar authority has been made by the applicant and, if so, the date and reference number thereof, and the action thereon, if any.

§ 62.12 Information required by application filed pursuant to § 62.3 (b). Each application shall state the following:

(a) The name and address of the carrier which seeks a finding that it owns more than 50 percent of the stock of another or other carriers; or the name and address of the person who seeks a finding that he owns 50 percent or more of the stock of two or more carriers; and

(b) The name and address of each carrier with respect to which the finding is sought by the applicant; for each such carrier, the total number of outstanding shares of stock of each category (common, preferred, etc.); the voting rights of each category; for each category, the number of shares directly or indirectly owned by the applicant and the percentage of the total number of outstanding shares in each category so owned. Where ownership is indirect, the applicant shall submit information regarding each intermediate entity involved to show that the applicant is the owner of the stock described.

ADMINISTRATIVE REGULATIONS

§ 62.21 Authorization to hold interlocking directorates in commonly owned carriers. After the Commission has found upon application filed pursuant to § 62.12 that two or more carriers are commonly owned carriers, any duly designated person is authorized hereby to be an interlocking director of two or more such carriers. However, the authorization herein granted to any interlocking director shall be automatically cancelled with respect to any position held in any such carrier which at any time ceases to be a commonly owned carrier, without notice thereof by the Commission, either to the interlocking director, to the carrier, or to the person upon whose application a finding of common ownership was made. In event of such cancellation, the interlocking director shall immediately cease and desist from acting in that capacity with respect to the carrier which has ceased to be a commonly owned carrier until such time as appropriate authorization is obtained pursuant to this part.

§ 62.22 Information in previous applications; incorporated by reference. When application has been made by any person, a subsequent application by him need not repeat every statement contained in the previous application but may incorporate the same by appropriate reference.

§ 62.23 Signature; verification. (a) The original application filed pursuant to § 62.11 shall be signed by the individual applicant, and shall be verified under oath in substantially the following form:

State of _____
County of _____, ss:
_____ makes oath and says that _____ holds no position as officer or director of any carrier or other business corporation except as indicated in the foregoing application, and that all of the statements contained therein are true and correct to the best of _____ knowledge and belief.

(Signature of applicant)
Subscribed and sworn to before me, a _____ in and for the State and County above named, this _____ day of _____, 19____.

[SEAL]

My commission expires _____.

(b) The original application filed pursuant to § 62.12 shall be signed and verified under oath by the applicant, if an individual, or by a duly authorized officer if a company or corporation.

§ 62.24 Form of application; number of copies; size of paper; etc. The original application and two copies thereof shall be filed with the Commission. Each copy shall bear the dates and signatures that appear on the original and shall be complete in itself, but the signatures in the copies may be stamped or typed and the notarial seal may be omitted. The application shall be submitted in typewritten or printed form, on paper not more than 8½ inches wide and not more than 11 inches long, with a left-hand margin of approximately 1½ inches, and if typewritten, the impression must be on only

one side of the paper and must be double spaced.

§ 62.25 *Additional or different positions with same companies.* If an applicant has been authorized by the Commission upon application filed pursuant to § 62.11 to hold certain positions as officer or director of certain carriers and is subsequently elected or appointed, or anticipates election or appointment, to additional or different positions with one or more of the same carriers, he may report the change in the manner and form provided in § 62.26 relating to "change in status." Authorization for the holding of such additional or different positions shall be deemed granted as of the 15th day following the filing of such report, unless within that time the Commission shall call upon the applicant for additional information or for the filing of a formal application.

§ 62.26 *Change in status; Commission to be informed.* Should any change occur in the situation as reported under § 62.11 the applicant shall report such change to the Commission within 30 days after such change occurs. Such report may be made by verified letter, in triplicate, signed by the applicant himself, his agent or attorney, or by an officer or attorney of one of the companies involved.

2. Old and new sections are cross-referenced in the following table:

Old section	New section	New section	Old section
62.1----- ¹	62.1	62.2-----	New
62.2-----	62.3 (a)	62.3 (a) ----	62.2
62.11-----	62.11	62.3 (b) ----	New
62.21-----	62.22	62.11-----	62.11
62.22-----	62.23	62.21-----	New
62.23-----	62.24	62.22-----	62.21
62.24-----	62.25	62.23-----	62.22
62.25-----	62.26	62.24-----	62.23
62.1----- ¹	62.1	62.25-----	62.24
		62.26-----	62.25

¹ Revised.

[F. R. Doc. 57-2068; Filed, Mar. 18, 1957; 8:49 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

PART 6—MIGRATORY BIRDS

ORDER PERMITTING KILLING OF COOTS IN AGRICULTURAL AREAS OF CALIFORNIA

Pursuant to the authority conferred upon me by the order of the Acting Secretary of the Interior, dated March 8, 1957, I have determined that the number of coots now present and likely to continue to be present in particular communities in California are such as to constitute a serious threat to agricultural crops through depredations by this species. Accordingly, an emergency is found to exist, and to protect crops which are threatened by such migratory birds the killing of such coots as are found damaging crops in the areas described below is hereby permitted, beginning this date and continuing until formally terminated but in any event not beyond May 30, 1957; such killing to be conducted in compliance with applicable

State law and subject to the following terms, conditions, and restrictions:

1. Coots may be killed on or over agricultural crops being damaged by such birds in the counties of Butte, Colusa, Fresno, Glenn, Kern, Kings, Madera, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, Talure, Yolo and Yuba.

2. Method of killing: Coots may be taken only by shooting with a shotgun not larger than No. 10 gauge fired from the shoulder.

3. Disposition of coots taken: Such birds as are killed under the provision of this order may be used for food within

the State of California, but they may not be sold, offered for sale, bartered, or shipped for purposes of sale or barter, or be wantonly wasted or destroyed.

(Sec. 3, 40 Stat. 755, as amended; 16 U. S. C. 704)

Issued at Washington, D. C., and dated: March 12, 1957.

ROBERT H. JOHNSON,
Acting Director,
Bureau of Sport
Fisheries and Wildlife.

[F. R. Doc. 57-2043; Filed, Mar. 18, 1957; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 904, 934, 996, 999]

[Docket Nos. AO-14-A25; AO-83-A21; AO-203-A7; AO-204-A7]

MILK IN GREATER BOSTON, MERRIMACK VALLEY, SPRINGFIELD, AND WORCESTER, MASS., MARKETING AREAS

NOTICE OF EXTENSION OF TIME FOR FILING EXCEPTIONS TO RECOMMENDED DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENTS AND ORDERS

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision, with respect to the proposed marketing agreements and the proposed marketing orders, regulating the handling of milk in the Greater Boston, Merrimack Valley, Springfield, and Worcester, Massachusetts, marketing areas which was issued March 5, 1957 (22 F. R. 1511) is hereby extended to March 28, 1957.

Dated: March 13, 1957.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 57-2057; Filed, Mar. 18, 1957; 8:47 a. m.]

[7 CFR Part 908]

[Docket No. AO-243-A4]

MILK IN CENTRAL ARKANSAS MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED AMENDMENTS TO THE ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of

1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Central Arkansas marketing area.

Interested parties may file written exceptions to the decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 5th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments to the tentative marketing agreement and to the order, as amended, were formulated was conducted at Little Rock, Arkansas, on November 19-21, 1956, pursuant to notice thereof which was issued on October 22, 1956 (21 F. R. 8193).

The material issues of the hearing related to:

1. Area changes:
 - (a) Extension—Items 1 and 8.
 - (b) Contraction—Item 17.
2. The producer definition in regard to diverted milk—Item 9.
3. Definition of distributing plant:
 - (a) To exempt plants with 2,000 gallons or less per day—Item 21.
 - (b) To exclude all approved plants located in the area—Items 6 and 10.
4. Classification definition: To include in Class II (a) fat "disposal for livestock feed" and (b) "casualty" losses—Items 2 and 3.
5. Allocation of "other source" milk—Item 4.
6. The Class I price—Items 7 and 11.
7. The Class II price—Item 12.
8. Compensatory payments—Items 5, 18, 19 and 20.
9. Plants under other orders—Items 6 and 13.
10. Adjustment for errors—Item 14.

11. Base rules—Items 15 and 16.

Findings and conclusions. The following findings and conclusions on the material issues are based on the evidence introduced at the hearing, and the record thereof:

1. *The city of Gurdon and the town of Okolona, Arkansas, in Clark county should be removed from the Central Arkansas marketing area and the following counties should be added to the area: Conway, Grant, Hot Spring, Lonoke, Monroe, Pope, and Saline.* The elimination of the city of Gurdon and the town of Okolona, in Clark county, was proposed by a partially regulated handler whose plant is located in Texarkana, Texas. The sales of milk from this plant, with the sales of one or two other partially regulated handlers in these communities on the western edge of Clark county which marks the southwestern border of the marketing area, constitute about 85 percent of total sales in these communities, if school milk is excluded. Two pool plant handlers compete in these localities, but the volume of their sales is small and a minor part of the trade. These facts and circumstances justify the removal of the city of Gurdon and the town of Okolona, both in Clark county, Arkansas, from the marketing area.

Producers and a group of handlers proposed addition to the marketing area of the following counties in Central Arkansas: Conway, Grant, Hot Spring, Lonoke, Monroe, Pope, and Saline. Handlers alone proposed the addition of three other counties, Cross, Poinsett, and St. Francis, in eastern Arkansas.

The evidence does not justify the incorporation of the three eastern counties in the marketing area. In these counties one Central Arkansas handler competes with one or two Memphis handlers, who distribute no milk in the present Central Arkansas area. Another handler, who was under the Central Arkansas order at the time of the hearing, but who according to subsequent official releases of the market administrator, has come under the Memphis order, is also a competing distributor in these three counties. Official notice is hereby taken of announcements issued by the market administrator, Federal Order No. 8, for the months November, December 1956; and January, February 1957, listing the names of regulated and partially regulated handlers. He is a large scale distributor in the Central Arkansas area as well as in the Memphis area. A reason for handlers' proposal to consolidate and extend the Central Arkansas marketing area was to bring this handler fully under this order, or at least, to make him subject to the compensatory payment provision of this order on all the milk distributed by him in Central Arkansas trade territory, where he competes with Central Arkansas handlers.

But such grounds do not support the addition of these particular counties to the marketing area. These counties are well to the east of the main trade territory of Central Arkansas handlers. They are also served by Memphis handlers who sell no milk in the present Central Arkansas area. The one Memphis handler

who distributes milk in the Central Arkansas area also distributes in these three counties; but his distribution in these counties is through his Memphis area vendor. Memphis handlers would appear to have no price advantage over Central Arkansas handlers that would justify the addition of these three eastern counties to the Central Arkansas area. None was alleged by proponents.

The same may be said with reference to the unpriced or unregulated distribution in these three eastern Arkansas counties. Only one unregulated distributor operates in these counties. His business varies from an estimated two percent of all Class I distribution in St. Francis, to 50 percent in Poinsett. Altogether sales by this distributor in these counties are probably not more than eight or nine percent of his total Class I trade. The bulk of his distribution is in unregulated trade territory. Nevertheless, his stake in the trade of these counties—measured by the proportion of sales in these counties to total sales—appears to be about equal to that of Central Arkansas handlers.

The evidence supports the addition to the area of the seven counties named above, proposed by handlers and producers. These counties lie well within the Central Arkansas Grade A milk trade area. Health and sanitary regulations are identical to those of the present marketing area.

Such enlargement of the area would incorporate in the area additional trade territory now served by two or more major Central Arkansas handlers, and by the partially regulated handler, who was recently under this order but who in December 1956, reverted to his original status under the Memphis order. Two major Central Arkansas handlers distribute milk in each of these counties. The sales by one amount to approximately 15 percent of his total Class I sales, by the other to about 21 percent. Sales by another handler in four of these counties amount to about 12 percent of his total sales. Still another handler distributes seven percent of his Class I sales in two of these counties. Since volume data on sales by counties are not available, how much would be added to area sales by the incorporation of these counties in the area cannot be definitely calculated. But the data of percentage of sales by handlers show that these counties are an important part of the sales area for producer milk; that they are an integral part of the trade territory of major Central Arkansas handlers, and of the large scale distributor in Central Arkansas who presently operates under the Memphis order. In Grant, Hot Spring, Lonoke, and Monroe counties there are no unregulated distributors. There is one unregulated distributor in each of the counties of Conway, Pope, and Saline. In Saline county it is estimated that sales by this distributor are about 10 percent of total sales, in Pope county about 50 percent, and in Conway county about 55 percent. In each case the unregulated distributor has a substantial proportion of his Class I trade in the county—estimated at about a

third in one case and 90 percent in the other cases.

One reason, advanced by producers and handlers, for adding these particular counties to the marketing area, is to bring these local distributors under uniform price regulation. These local distributors compete with handlers for milk supply. While they pay producer prices that conform closely to pool plant prices or to prices returned to member producers by the cooperative association, they obviously do not account and pay for their supplies on a class price basis. Their cost of Class I milk may be somewhat less than that of handlers who compete with them. It also appears, in these cases, that the cost of supplies is lessened by the practice of balancing very closely receipts from dairy farmers with sales, and procuring supplementary supply from regulated plants, or directly from the producers' cooperative association. Such practices and circumstances give ground for including them under the uniform price provisions of the order. One of these local distributors went on record in favor of so doing. Another demurred, but not on grounds of possible effects upon his buying prices and competitive position. He was reluctant to become a handler because of the administrative assessment and the necessary record keeping and reporting. Under the circumstances, such objection could hardly be determining.

An additional reason for incorporating in the marketing area more of the trade territory served by the principal Central Arkansas handlers lies in the application of another order provision,

§ 908.61 *Plants subject to other Federal orders.* It applies to plants with sales in more than one Federal marketing area. If a distributing plant in this area also sells in another area, under an order with a similar provision, the handler is subject to the order for the area where, during a specified period, his sales are greater. In this determination only the sales actually in the respective areas are considered. Also, the compensatory payment specified in this section of Order No. 8, which is applicable to a distributor in this area who is a handler under Order No. 18, applies only to his sales that are actually in the defined marketing area.

Major Central Arkansas distributors operate extensively outside the present marketing area. Two or three distribute milk from Central Arkansas plants in marketing areas under other orders. One of these, as noted above, was under Order No. 18 when Order No. 8 was issued. In June 1956, this distributor came under Order No. 8. But since January 1, 1957, he has been under Order No. 18. Another Central Arkansas distributor, presently a handler under this order, at times is successful bidder on large military camp contracts in another marketing area for a volume of milk that might exceed his sales in the present area. This handler distributes substantial quantities of milk in several of these counties that are proposed for the area. He supports such extension of the marketing area, in part, for the reason

that it would make more secure his existing status under this order.

It therefore appears that the purposes of this order would be served by the inclusion of the seven counties named above in the marketing area. All or a large proportion of the distribution in these counties is by handlers under this order and a handler presently under the Memphis order. While two or three local distributors would become subject to the Central Arkansas order, it does not appear that minimum order prices would be unreasonable for them or that the level of their producer prices would be changed much, if any. Among the regulated distributors in the Central Arkansas trade, it would tend to make minimum buying prices more uniform and thus to enhance the stability of producer prices. The Central Arkansas distributor, who is presently a handler under the Memphis order, has a lower Class I price than he would have if he were operating under the Central Arkansas order. But, for the receipts of local milk that he distributes in the Central Arkansas marketing area he makes a "compensatory payment" to Central Arkansas producers, which is designed to equalize his plant price with that of Central Arkansas handlers. Enlarging this area to include more of his trade territory would not only increase the ratio of his sales in this area to those in the Memphis area—which determines his handler status—but also increase his compensatory payments to Central Arkansas producers when he is a Memphis handler. Likewise such enlargement would tend to reduce the uncertainty of continuing applicability of the minimum price terms of this order to Arkansas handlers who also distribute milk in the areas of other Federal orders.

2. *The producer definition should not be amended.* The Central Arkansas Milk Producers' Association proposed that the definition of "producer" be amended to permit a cooperative association to divert milk to a nonpool plant in all months of the year. The present definition allows pool plant handlers (including producers' cooperative associations) to divert milk at any time during the months February through August, and on not more than ten days during any other month. The effect of the proposal would be to allow a cooperative association to divert milk at any time during the year, while retaining the ten-day limitation on diverted milk for proprietary handlers during the months September through January.

In support of the proposal, the producers' association contended that the present provision has imposed hardship on several of its members. Three producers who were shipping milk on a route which was converted to bulk tank had not done so when the route was so converted. Consequently, their milk in cans had to be hauled over 100 miles, apparently to another pool plant in order for them to maintain producer status. The association maintained that if it had been permitted to divert milk to a nonpool plant for more than ten days during the period September

through January this situation could have been averted.

Under the proposal, the association would not divert the milk of non-members in a similar situation. The stated purpose of the proposal is to protect the producer status of cooperative association members.

The manager of the producers' association testified that proprietary handlers should not be extended year-round diverting privileges because handlers' plants might be loaded unnecessarily with Class II milk, thereby reducing uniform prices to producers.

The present provisions concerning diverted milk were originally included in the order because some milk not needed for Class I use in the area had been diverted from producer farms directly to manufacturing plants. The privilege of diverting such milk to non-pool plants obviates the handling of milk at bottling plants which are not equipped to manufacture reserve supplies. The diverting privilege was limited during the months of low production because reserve supplies during those months normally prevail only on weekends or holidays. Cooperative associations were afforded the same diverting privilege as handlers to enable them to market their members' milk more efficiently, and to keep such milk pooled.

The evidence in the record in support of the proposal was confined to an unusual incident involving a minute segment of the market for a short period of time. It would be very difficult from an administrative standpoint to guard against all situations which may be temporarily disruptive, and at the same time to provide larger safeguards necessary to insure that milk in the Central Arkansas market shall be marketed as efficiently as possible. There is no evidence that the Central Arkansas market treated as a whole, needs any provision for diverting milk on a year-round basis, except as it is already contained in the order. The proposal should not be adopted.

3. *The definition of "distributing plant" should not be amended.* (a) A handler proposed that a volume limitation be provided in the distributing plant definition which would exempt from regulation any plant distributing less than 2,000 gallons of milk a day in the marketing area.

The proponent testified that he produces half his volume and purchases the remainder from the Central Arkansas Milk Producers' Association. The handler's primary objection was in having to pay into the producer-settlement fund on his high Class I utilization. His operation includes no Class II utilization. His present distribution amounts to approximately 450 gallons per day, 150 gallons of which are distributed in the marketing area. The proponent stated that construction has just been completed on a plant which will enable him to triple his capacity.

The proposal to include the exemption was supported primarily on the basis that the handler's Class I distribution in the marketing area is much less on a total volume basis than that of "larger" handlers. There is no evidence in the record

indicating any economic justification for exempting a handler from regulation simply because the quantity of milk he distributes is less than that of other handlers.

Evidence in the record indicates that the proponent's distribution in the marketing area exceeds 30 percent of his total Class I distribution. Elsewhere herein, it is recommended that the marketing area be extended. If this occurs, it is probable that the proponent's percentage of total distribution would be even more than the present 30 percent. There would be little justification in exempting one handler whose distribution in the marketing area exceeds 30 percent of his total Class I distribution while regulating other handlers whose Class I distribution in the marketing area is 10 percent or more of total Class I sales.

It is concluded that the proposed volume exemption should not be adopted.

(b) Producers and handlers proposed that a distributing plant be regulated by Order No. 8 (Central Arkansas) if it is located within the marketing area. This proposal was submitted in conjunction with another proposal which is discussed later in connection with Issue No. 9.

Proponents supported the proposal on the basis that any plant located in the marketing area is, of necessity, associated with the market. Such plant procures its milk from the same area as do other plants located in the area. In addition, a substantial portion of such plant's Class I sales are logically made within the area.

Specifically, the proposal is intended to regulate by Order No. 8 a plant located at Conway, Arkansas. This plant has had a recent history of having been regulated by Order No. 8 and by Order No. 18 (Memphis). Proponents contend that the regulation of the plant by one order and then by another disrupts marketing conditions for the Central Arkansas area.

The plant referred to has, for the most part been regulated by Order No. 18 on the basis of a larger volume of Class I sales distributed in that marketing area than in the Central Arkansas area. Official notice is taken of the final decision of the Assistant Secretary which was published in the FEDERAL REGISTER on November 30, 1956 (21 F. R. 9383) in which it was concluded that in determining the applicability of Order No. 8 to a handler who qualifies under more than one Federal order, such determination should not be made on any basis other than that of identifying the market in which the largest volume of his Class I sales is distributed. No new evidence was introduced which would justify a different conclusion at this time.

The object of Federal milk regulation is to assure that all milk handled within a specified marketing area shall be paid for on the basis of its utilization, and at prices established by the order. The area from which handlers procure milk is not the criterion for regulation.

Proponents emphasized that by reason of a location differential applicable at Conway, Arkansas, when the plant there is regulated by Order No. 18 (Memphis) the operator of that plant enjoys a com-

petitive advantage over handlers regulated by Order No. 8 on Class I sales made outside the marketing area.

But this merely means that competing handlers under different orders may have different minimum buying prices. This would appear to be inevitable, at some plant locations, even though prices at the respective areas are the same, as is the case in this instance. If the areas are correctly defined and location differentials are reasonable, the basis for such differences in plant prices are presumed to be economic. Proponents of this proposal also approached their problem through an area enlargement proposal, which is herein considered as Issue No. 1.

It is concluded that the proposal should not be adopted.

4. *The classification provisions of the order should not be changed.* Handlers proposed that (a) in disposing of milk for livestock feed, the butterfat and skim portions should be classified as Class II. At the present time, only the skim portion is so classified, (b) transportation and processing losses should be classified as Class II milk.

In support of proposal (a), handlers testified that 99 percent of all milk disposed of for livestock feed originates as returns of buttermilk, flavored milk and homogenized milk. Livestock feed disposition amounts to about one percent of total Class I and Class II disposition for the market. Since the volume of recoverable fat from buttermilk is negligible, returns of homogenized and flavored milk account for the bulk of the butterfat in livestock feed. Butterfat from Grade A Cream-line milk, cream and half-and-half is generally recovered from returned items.

One handler stated that during the past 10 months an average of 1,174 pounds of butterfat monthly was disposed of as livestock feed, with the major quantities disposed of in the months of March, May, June and July 1956. Another handler testified that his firm disposed of an average of 964 pounds of butterfat per month in this manner.

The quantity of butterfat involved, if the proposal were adopted, represents a very small portion of the total Class I and Class II disposition of handlers. It was conceded that any decrease in handlers' cost would be slight. In view of this it is doubtful whether the advantages of adopting the proposed amendment outweigh the advantages of retaining the present language of the order.

The present method of classifying the butterfat and skim components of milk utilized as livestock feed contains incentive for handlers to recover as much as possible of the butterfat in milk disposed of in this manner. Handlers' testimony indicates that this is being done. The present provision influences handlers to adjust their bottling operations as closely as possible to their Class I route sales in order to guard against increasing volumes of route returns. If the proposal were adopted, there would be less incentive to tailor bottling operations with route requirements, since all returns could be disposed of for livestock feed and classified as Class II.

There is little economic justification in allowing unlimited disposition of producer milk in this manner. In fact, some safeguard is necessary to discourage it. Present order language contains such safeguard. The order contains a two percent allowance for shrinkage. In cases where plant shrinkage is less than two percent, the butterfat contained in livestock feed is included in the shrinkage allowable in Class II. Shrinkage, as a percentage of total receipts has declined steadily since the inception of the order, indicating increased efficiency in handlers operations. It is not inconceivable that the gradual reduction in the volume of plant shrinkage for the market, is due to the order provisions safeguarding the classification of producer milk.

It is concluded that the proposal should not be adopted.

In support of (b), handlers stated that processing losses have occurred when milk to be used for buttermilk failed to coagulate because of antibiotics present. It was testified that this situation was avoided after it occurred by testing samples of individual producers' milk before commingling and making buttermilk. The proposal is intended to classify processing losses of this type in Class II whenever they occur. However, there is no justification for assigning producer milk to a lower class whenever handlers fail in processing techniques to prevent losses such as those described.

The record contains no guides as to what might or might not be considered a processing loss. It would, without such guides, encompass all losses, including those due to negligence, accident or mischievous damage. Nor would it be feasible to require the market administrator to decide what constitutes a processing loss, since he undoubtedly would not be present when it occurred.

Handlers also proposed that transportation casualty losses should be priced in the lowest class whenever they occur, subject to prompt notification of the market administrator to allow verification. Some handlers operations are covered by cargo insurance, and some are self-insured. The proposal was mainly supported by a handler who does not carry cargo insurance, stating that the cost is prohibitive.

While it is reasonable for handlers to protect themselves from all manner of business hazards, it is not necessary, as the experienced management of many handlers demonstrates, to provide such protection in the classification provisions of the order. The responsibility for protection against fire, explosion, theft, etc., which may destroy or damage a handler's property may reasonably be expected to be borne by the handler. Likewise, transportation losses, when the property is the handler's, should be considered part of the risk of doing business, and protected accordingly. Producers should not be expected to take a lower classification on any milk involved in such losses.

It is concluded that the proposal should not be adopted.

5. *The allocation provisions of the order should not be changed.* Handlers proposed that producer milk should not receive preferential classification as Class I over other source receipts, unless producer receipts at pool plants are at least 115 percent of the Class I sales of pool plants. During the course of the hearing, handlers revised the factor to 110 percent.

In support of the proposal, handlers testified that the present allocation provisions are not encouraging producers to meet their supply obligations.

One handler testified that during the month of August 1956, when there was sufficient producer milk on the market to supply Class I sales inside the marketing area, other source receipts were used. Some handlers received other source milk instead of producer milk. At the same time, producer milk was delivered to handlers with Class II utilization. The allocation system washed out all but about 9 percent of the utilization of producer milk in Class II. The handler's chief objection to this situation was that his firm had to pay a compensatory payment on the other source milk which was supplied by the producers' association.

It is noted that the action recommended under Issue 8 (a) should provide appropriate relief for the situation complained of under this issue. Consequently, it is not necessary to amend the allocation provisions of the order.

6. *The Class I milk price should not be changed.* Producers proposed that the Class I milk price for Central Arkansas be based on the Class I milk price for Memphis, Tennessee (Order No. 18) plus 35 cents, in all months of the year. It was also proposed that in no case shall the Central Arkansas Class I price be less than the Class I milk price for the Ft. Smith market.

A series of producer witnesses testified that the proposed price increase is necessary to counteract declining income from milk production. However, it should be noted that Class I, Class II and uniform prices for Central Arkansas increased during the year 1956. Declining income from dairying, particularly in areas close to the city of Little Rock, Arkansas, appears to be due primarily to increased costs resulting from extremely dry pasture conditions and competition with industrial expansion for available labor. Producer witnesses whose farms are located close to the metropolitan area are operating relatively small herds, and expressed reluctance to use capital reserves to enlarge them in order to take advantage of economies of scale and efficiencies from labor saving equipment.

An official of the Central Arkansas Milk Producers' Association testified that the Class I price for Order No. 8 should be 70 cents over the Class I price of Order No. 18 to attract an adequate supply of milk for Central Arkansas. It was conceded, however, that intermarket relationships should be considered in establishing an appropriate Class I differential for Central Arkansas. Consequently, the association proposed a Class I differential of 35 cents over the Memphis Class I price. This amount repre-

sents the cost of transporting milk in packages from a plant in Conway, Arkansas to Memphis, Tennessee. The association contends that the proposed Class I price is not enough to attract an adequate supply of Class I milk for Central Arkansas, but represents a minimum necessary to preserve an alignment of prices (presumably with Memphis), keep present producers supplying the market, and attract new ones.

The producers' association also contends that for the months of March and July, the Central Arkansas Class I differential is out of line with that contained in the Ft. Smith order, which is about 50 cents over Central Arkansas during those two months. Producers maintain that this has a disturbing effect on dairy farmers who live in the same locality and ship milk to the two markets. There could be transfers of producers to the Central Arkansas market during March and July because these months are part of the flush period for the Ft. Smith market. No transfers are made, however, because of the price difference. By raising Central Arkansas price to a level comparable with Ft. Smith, the association (having members shipping to plants regulated under both orders) could divert milk from Ft. Smith to Central Arkansas, or transfer producers permanently to Central Arkansas. So long as the Ft. Smith price is higher than Central Arkansas, the association maintains that it cannot induce its members to transfer. It was estimated that by diverting milk, and by negotiating premiums with handlers, Central Arkansas producer prices have been increased in 1956 by about 49 cents per hundredweight. This has not been enough to achieve the supply needed.

Handlers testified that because of the inter-relationship of the two markets, the Class I prices under the Memphis and Central Arkansas orders should be identical. If the Central Arkansas price is higher than the Memphis price, a plant located at Conway, Arkansas, when regulated by the Memphis order, and obtaining a location differential, could increase its competitive advantage with Central Arkansas regulated handlers, particularly outside the present marketing area. Handlers were primarily concerned with the price alignment with Memphis. Handlers would support a temporary price increase for Central Arkansas, but in the long run the competitive position with Memphis, must be considered.

The Borden Company representative testified that the level of the Class I price is not the complete answer to the shortage of milk in Central Arkansas. The fact is that large volumes of milk have been used to supply Class I sales in the Memphis and Ft. Smith areas. To continue in this manner could increase the Central Arkansas Class I price to an extremely high level, and still not result in adequate supplies for Central Arkansas handlers. The association's proposed Class I price would jeopardize large quantities of Class I sales in eastern Arkansas, and in the Memphis marketing area which are of great value to producers. The Central Arkansas handlers

would be at a great disadvantage in competing with the Memphis handler located at Conway, Arkansas, who could procure milk for 63 cents per hundredweight less than Central Arkansas handlers (35 cents increase and 28 cents location differential). It was pointed out that prior to the order, Central Arkansas prices averaged five cents per hundredweight over Memphis. For 10 months of 1956 it averaged seven cents over.

Evidence introduced into the record concerning marketing statistics was necessarily restricted to the period December 1955 through September 1956. This is due to the fact that the order became effective in December 1955. Consequently, there are insufficient data available for comparison to determine what impact the present price level has had on production. Official notice is hereby taken of the market administrator's statistical summaries for October, November and December 1956. These summaries, along with data in the record provide marketing statistics for a full year, plus a comparison of December 1955 with December 1956. In addition, official notice is taken of the market administrator's announcement of the Class I price for January and February 1957, as well as the Class II price for January 1957.

Since the inception of the order, the Class I price for Central Arkansas has been the same as that for Memphis, Tennessee. This price includes whatever supply-demand adjustment is applicable for the Memphis market. As a result of a recent amendment to the Memphis supply-demand adjuster, the Class I price for Central Arkansas increased significantly for the months September, October and November 1956. For December 1956, the Class I price was 25 cents per hundredweight more than in December 1955. For January and February 1957 compared with 1956, the Class I price was 12 and 14 cents more, respectively.

Daily average producer receipts have increased steadily during 1956. In December 1956 daily average producer receipts were 61,000 pounds more than in December 1955. Total numbers of producers, both "part time" and "regular" have increased since December 1955. Present price levels have encouraged increased production per producer, from 412 pounds in December 1955 to 454 pounds in December 1956.

On the other hand, the utilization of producer milk in Class I has declined slightly from 94.9 percent in December 1955 to 92.0 percent in December 1956.

It is recognized that marketing experience under Federal regulation for the Central Arkansas market has been limited insofar as it is possible to analyze the effect of the present Class I price level on production. It is concluded that the present Class I price level insofar as it can be determined, has encouraged the development of needed supplies of producer milk. The Class I price level should not be changed at this time.

In this connection it should be noted that the handler proposal to establish an appropriate supply-demand adjuster for the Central Arkansas market was

not supported at the hearing. The Central Arkansas market has had a history during the past year of having one large handler regulated either by the Central Arkansas order, or by the Memphis order. More experience is needed in order to construct an appropriate supply-demand adjuster for Central Arkansas. When adequate data are available an appropriate supply-demand adjuster may be considered and the level of the Class I price reviewed.

7. *The seasonal pricing provisions for Class II milk should be amended.* The Class II milk price is based on the average paying prices of three Arkansas manufacturing plants during the six months period of February through July. During the remaining six months the price is determined to be the basic formula price for the month, or the average pay price of the three Arkansas plants plus 25 cents, whichever is less. This pricing mechanism results in a lower Class II price during February through July than is applicable during the remaining six months.

Producers proposed that the lower Class II price apply during the months April through June. The effect of the proposal would result in a higher price for Class II milk during the months February, March and July than now prevails during those months.

During February and March, 1956 only small quantities of producer milk were utilized in Class II. The volumes so utilized were manufactured into high value products such as ice cream and cottage cheese. Relatively little milk was manufactured into butter and cheese.

The utilization of producer milk in Class II during 1956 was highest during the months April through July. For the months February and March, the utilization of producer milk in Class II was 4.81 percent and 3.05 percent, respectively. For the months April through July, such utilization ranged from a low of 10 percent to a high of 15 percent.

The experience of the market in 1956 indicates that a limited revision of the seasonal pricing of Class II milk is justified.

While statistics are available for only one year, it is questionable whether the month of July should be designated as a seasonally higher Class II pricing month. In July 1956, for instance, over two million pounds of producer milk were utilized in Class II. This was the largest volume so utilized in any month for the year.

On the other hand, the months of February and March may reasonably be included among the seasonally higher Class II pricing months, since the utilization of Class II in these short production months is relatively low. At the same time, such utilization is primarily for the manufacture of higher valued products.

For 1956, the Central Arkansas Class II price on a yearly average basis compared favorably with those for surrounding Federal order markets. It was higher than three of them, ranging from 8 to 13 cents. At the same time, it was 10 cents lower than two others.

Handlers opposed the proposed amendment on grounds of competition with unregulated plants selling ice cream mix into the Central Arkansas marketing area. One handler opposed the amendment because he expects to expand his Class II ice cream and cottage cheese manufacturing operations on the basis of the present price level. There was no testimony to indicate that handlers have had any difficulty in disposing of reserve milk at any time during 1956.

It is concluded that the months of February and March should be designated higher seasonal Class II pricing months. Such action is consistent with the seasonal pattern of Class II utilization of producer milk in the market. The provisions concerning the Class II butterfat differential should be amended to conform with this conclusion.

8. *The compensatory payments provisions of the order should be amended.* Handlers proposed that (a) the compensatory payments provisions of the order shall not apply whenever producer receipts at pool plants are less than 115 percent of total Class I sales from pool plants. (During the hearing handlers reduced the factor to 110 percent), (b) the months during which the rate of compensatory payments on other source milk is based on the difference between the prices for Class I and Class II milk be changed, (c) the rate of compensatory payments applicable to nonpool handlers distributing fluid milk products on routes in the marketing area be based on the difference between the Federal order uniform price for the month and the average producer pay price of the nonpool plant, and (d) the rate of compensatory payments in all months of the year be based on the difference between the Class I price and the uniform price.

In support of (a), handlers testified that the allocation provisions of the order do not encourage producers to supply Central Arkansas handlers. Handlers contend that producers have an implied obligation to supply the market with its minimum requirements for milk before handlers are required to pay compensatory payments on other source milk utilized to furnish the Class I requirements of the market.

Handlers testified that during short-production months they have paid premiums for producer milk. At the same time, compensatory payments were charged on other source milk which was needed to supply the Class I needs of the market. The Central Arkansas Milk Producers' Association operates under a "full supply" verbal agreement with handlers. Consequently, the association has imported volumes of other source milk for Central Arkansas handlers when producers were unable to supply sufficient volumes of milk for the Class I needs of the market. When such other source milk originates in areas not Federally regulated, a compensatory payment is charged in computing the handlers' obligation to the Central Arkansas pool.

Producers presented no opposition testimony or recommendation.

During 1956, there were four months during which producer receipts were more than 110 percent of Class I sales.

During six of the remaining eight months, producer receipts were less than the Class I requirements of the market. The association has supplied handlers with other source milk whenever producer milk was not available in sufficient volumes to furnish the market with its requirements for Class I milk. Most of these imports of other source milk were from areas regulated by other Federal orders. Consequently, no compensatory payments were charged. Whenever other source milk was obtained from unregulated sources, such payments were charged.

The purpose of the compensatory payments feature of the order is to assure that milk for fluid use, from areas not regulated by a Federal order, shall be procured at not less than the minimum prices established for Central Arkansas; so that handlers who use such unpriced milk will not thereby have cheaper milk than handlers who use only producer milk, and no handler will have any incentive to substitute it for producer milk that is available to him.

Conditions in the Central Arkansas market are such that the association, representing a major portion of the producers supplying milk to regulated handlers, has the obligation under an agreement with handlers to procure for them other source milk when needed. Available marketing statistics indicate that the volume of producer milk available to regulated handlers was less than the requirements for Class I use during a substantial part of 1956. There is indication that the availability of producer milk is improving; but under prevailing supply arrangements there appears to be no need for compensatory payments by handlers on other source milk except when the market supply of producer milk is sufficient for Class I needs plus a minimum reserve. It is concluded that this proposal should be adopted.

In support of (b) and (c) one handler proposed different rates of compensatory payments on other source milk obtained by regulated handlers, and on fluid milk distributed in the marketing area by a nonpool plant. At the present time, the rates are the same.

In connection with (b) the witness testified that the need for the proposal is comparable to that discussed under (a) above. However, there was no specific testimony as to why the rate for pool plants should be any different from that for plants not regulated by a Federal order, and distributing milk in the marketing area.

It is concluded that these proposals should not be adopted. The aspect of these proposals concerning whether the rate of compensatory payments applicable to both types of handlers should be changed is discussed later in section (d).

In support of (d) a number of handlers testified that the present rate is too high during the months February through July. During this period, the rate is the difference between the prices for Class I and Class II milk. In support of their position, proponents contended (1) The distributing plant definition is such that their distribution of Class I milk in the marketing area reflects insignificant

competition with regulated handlers; (2) prices paid to producers by unregulated handlers, who have had to pay compensatory payments, have been higher than the Central Arkansas uniform prices during the February through July period.

Milk from unregulated plants is sold as Class I in the Central Arkansas marketing area. It is distributed to consumers on routes operated by fringe area plants. Also, pool plants purchase milk from unregulated plants in bulk to supply their own Class I outlets.

The order contains classified pricing provisions whereby producers who are primarily engaged in furnishing milk for sale in the marketing area are paid for such milk according to its utilization. The pricing provisions of the order cannot be maintained unless the Class I market is safeguarded from the competition of excess milk from surrounding unregulated areas, and from such areas located considerable distance from Central Arkansas.

Since there is no direct control over the pricing of milk from unregulated plants, the order provides a method of bringing such milk under the classified pricing system without fully regulating the plant from which such milk originated. The compensatory payments provision of the order accomplishes this.

Proponents testified that producer pay prices in the fringe areas are equivalent to or higher than the Central Arkansas uniform prices. However, in the absence of regulation, it is impossible to determine the comparability of the prices quoted with those established by Order No. 8. Producers shipping milk to unregulated plants are normally paid blend prices which may be influenced by different classification schemes, and by varying charges for services or supplies.

The record shows that milk supplies are invariably larger in Arkansas and in surrounding markets during the months March through July than in the remaining months of the year. The excess or increased production during these months must be marketed largely as manufactured products since Class I sales remain relatively static. The prevailing manufacturing milk prices represent the opportunity cost of such milk during these months. This aspect of the compensatory payments provision of the order was covered in detail in the final decision issued by the Assistant Secretary on October 7, 1955 (20 F. R. 7669).

It is concluded that there is no new evidence to justify changing the rates now provided in the order; but that the month of February should be included with those for which the lower rate applies.

9. *Section 908.61 should not be amended.* This section provides for determining the applicability of Federal regulation when milk plants qualify under more than one order.

Handlers and producers submitted this proposal as a conforming change in conjunction with their proposal to amend the distributing plant definition (Issue No. 3-b).

Since it was concluded under Issue No. 3 that the definition should not be amended, it is also concluded that this proposal should not be adopted.

10. The provision of the order authorizing plus or minus adjustments for errors made in previous payments made to producers should not be changed. The producers' association proposed that the provision authorizing minus adjustments for errors in previous payments to producers be deleted. The producers' witness testified that the present provision impairs the effectiveness of making audit adjustments for handlers when premiums have been paid. It was contended that the present provision would permit a handler who previously paid a premium to producers to underpay them in a later month. Then, on audit, the apparent overpayment could be applied to a subsequent underpayment. Or, as a result of a so-called overpayment resulting from a premium, a minus adjustment may later be made from checks payable to producers. Proponents contended that adoption of the proposal would prevent these situations from occurring. The purpose it serves is best explained by the use of the word "errors". This could include typographical errors made in preparing checks, arithmetical errors in computing payments, and the use of incorrect pricing data. It is not clear how the payment of a premium could be construed as an error in paying producers, unless pertinent facts are withheld from the market administrator at the time an audit is made. The market administrator should have available to him all the factors handlers use in computing payments to producers. If any confusion or uncertainty exists about an apparent overpayment, it would not be difficult to ascertain the facts.

At the same time, it is recognized that bona-fide errors may be made, requiring minus adjustments in payments to producers. In view of this, there is no justification for limiting the order provision to plus adjustments only.

It is concluded that the provision should not be changed.

11. The base-excess provisions of the order should be amended. Producers proposed that the base transfer provisions be amended (a) to permit partial base transfers, and (b) to provide for the computation of bases for producers when a plant previously regulated by another Federal order becomes regulated by Order No. 8.

In support of (a) the producer representatives testified that: (1) The association now permits its members to transfer partial bases. Presumably this is taken into account when the association rebles the proceeds from the sale of milk and distributes it to its members. Since the association represents almost all producers on the Central Arkansas market, adoption of the proposal would merely reflect what is now being done in the market; (2) the effect of the proposal would be to increase production for the Central Arkansas market at a time when it is needed, because a new producer could obtain a base by purchase, by borrowing it or by having it given to him; (3) very few producers come on the Central Arkansas market during the heavy production season. The acquisition by them of some base could be no

problem as far as the entire market is concerned. However, it is not clear that anything would be gained for the market as a whole by the adoption of this practice even though the association finds it convenient and useful among its members.

If adopted, the proposal would require a great deal more record keeping than is justified by the benefits which may result. It is not feasible to incorporate into the order a plan requiring as much administrative detail as this would.

It is concluded that the proposal should not be adopted.

In support of (b) producers pointed out that handlers in the Central Arkansas area have had large portions of their sales in the Memphis area and in the Ft. Smith area. Consequently, a situation exists wherein milk plants in the Central Arkansas area shift from regulation under one order to regulation under surrounding orders and back again depending on volumes of Class I sales distributed.

Under such conditions, it is reasonable to allow bases under Central Arkansas to be computed for producers shipping to such plants when shifts of this kind occur. The Central Arkansas market administrator could verify producers shipments to such plants during the short production season and compute bases for them under Order No. 8.

It is concluded that the proposal should be adopted.

Rulings on proposed findings and conclusions. A number of briefs were filed which contained statement of fact, proposed findings and conclusions and arguments with respect to the provisions of the proposed amendments. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the findings and conclusions proposed in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in the recommended decision.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as and will be

applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and amendment to the order, as amended. The following order, amending the order, as amended, is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The proposed marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order, as amended, and as hereby proposed to be further amended.

1. Delete § 908.4 and substitute the following:

§ 908.4 *Central Arkansas marketing area.* "Central Arkansas marketing area", hereinafter called the "marketing area" means all the territory included within the boundaries of the counties of Clark (except the city of Gurdon and the town of Okolona), Conway, Faulkner, Garland, Grant, Hot Spring, Jefferson, Lonoke, Monroe, Pope, Pulaski, Saline and White, all in the State of Arkansas.

2. In § 908.51 (b) and § 908.52 (b), delete "February" and insert "April".

3. At the end of § 908.70 (b) change the semicolon to a colon, and add the following: "Provided, That such calculation shall not apply if the total receipts of producer milk at all pool plants during the month are not more than 110 percent of the total Class I utilization of such plants for the month."

4. Delete § 908.90 and substitute the following:

§ 908.90 *Computation of daily average bases for each producer.* Subject to the rules set forth in § 908.91, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the period of September through December immediately preceding, by the number of days from the first day of delivery by such producer during such period to the last day of December inclusive or by 90, whichever is more: *Provided*, That, in the case of producers delivering milk to a plant which first became a pool plant during any of the months of January through July, a daily average base for each such producer shall be calculated pursuant to this section on the basis of his deliveries of milk to such plant during the period September through December immediately preceding: *And provided further*, That such plant was regulated by another Federal order during that period.

5. Delete § 908.91 (a) and substitute the following:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 908.90 to each person for whose account producer milk was delivered to pool plants during the months of September through December, or whose deliveries of milk during these months were to a nonpool plant

which became a pool plant during the following months of January through July.

Issued at Washington, D. C., this 14th day of March 1957.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 57-2078; Filed, Mar. 18, 1957;
8:51 a. m.]

[7 CFR Part 1015]

[AO-281]

CUCUMBERS GROWN IN FLORIDA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTION WITH RESPECT TO PROPOSED MARKETING AGREEMENT NO. 118 AND ORDER NO. 115

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed Marketing Agreement No. 118 and Order No. 115 (hereinafter referred to as the "order"), regulating the handling of cucumbers grown in Florida, south or east of the Suwannee River to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), hereinafter called the "act." Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the fifteenth day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The public hearing on the record of which the proposed marketing agreement and order were formulated was opened at Fort Myers, Florida, May 28, 1956, pursuant to notice thereof which was published in the FEDERAL REGISTER (21 F. R. 2689). The hearing was recessed June 1, 1956, and reopened at Fort Myers, Florida, November 5, 1956, following notice of such reopening published in the FEDERAL REGISTER (21 F. R. 7957, 7992, 8368). The hearing was adjourned November 9, 1956, and continued at West Palm Beach, Florida, November 12-13, 1956.

The original notice set forth the proposed marketing agreement and order which were sponsored by certain producers and handlers of Florida cucumbers. The notice of reopening of hearing contained changes proposed for consideration by the Florida Cucumber Growers Association at such reopened hearing which related to pack specifications and marking of containers.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to be affected by the order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the marketing agreement and order including:

(a) Definitions of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, duties, and operation of a committee, which shall be the administrative agency for assisting the Secretary in administration of the program;

(c) The authority for the committee to incur expenses and to levy assessments on shipments;

(d) The need for authority to establish cucumber marketing research and development projects;

(e) The method for limiting the handling of cucumbers grown in the production area;

(f) The methods for establishing minimum standards of quality and maturity, and pack specifications;

(g) The methods for authorizing special regulations applicable to the handling of cucumbers for specified purposes or to specified outlets which may be handled under special regulations that are modifications or amendments to grade, size, and quality regulations;

(h) The necessity for inspection and certification of shipments;

(i) The relaxation of regulation in hardship cases and the methods and procedures applicable thereto;

(j) The procedure for establishing reporting requirements upon handlers;

(k) The requirements of compliance with all provisions of the order and with regulations issued pursuant thereto; and

(l) Additional terms and conditions as set forth in §§ 1015.70 through 1015.73 and §§ 1015.81 through 1015.91 and published in the FEDERAL REGISTER (21 F. R. 2689; April 26, 1956), which are common to marketing agreements and orders.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

(1) The major portion of the cucumbers grown in the Florida production area enter commercial market channels with the great bulk of such movement going to destinations outside Florida. The 1955-56 Florida cucumber production has been estimated at 2,978,000 bushels. The 1954-55 Florida crop of cucumbers was estimated at 3,158,000 bushels. During the 1954-55 season, truck and carlot shipments, representing 7,519 carlot equivalents or approximately 3,383,550 bushels were shipped out of

Florida into interstate or foreign commerce. However, included in total shipments are Cuban imports apparently equivalent to about 1,390 cars of cucumbers which were moved in trucks and a lesser quantity moved in cars, most of which were presumed to have left the production area. The distribution of the 1954-55 cucumber crop was widespread. Shipments from this crop were made to 45 States, the District of Columbia, Canada and to points both within and outside the production area in the State of Florida. The major portion of the market for cucumbers in fresh form lies outside the production area.

Naturally, all cucumber growers and shippers seek to obtain the highest possible return for their cucumbers. In assessing the market and in making sales, sellers survey all available markets with a view to accepting the most advantageous opportunities and offers to market their cucumbers. Successful shippers and packers are forced by their competition to keep fully informed with respect to all possible market information, especially the level and trend of prices in specific markets both within the production area and outside of Florida. There are sales opportunities within Florida as well as outside the State. The opportunity for advantageous sales are eagerly sought by handlers and such opportunities are accepted regardless of whether the cucumbers are sold at shipping point, or at destination, or in consuming markets within Florida, or in Boston, New York, Chicago, Los Angeles, or any other market beyond the production area. Both buyers and sellers use the latest and most modern forms of communication, not only to keep up with their competitors, but also to maintain the closest possible contact with market conditions at every point where there may be a potential sale. The sales manager would be lost without the telephone in contacting buyers in terminal markets and in talking to their customers. Many of the cucumber handlers in the production area make constant use of teletype reports which show such information as to supplies and prices in terminal markets and in the various producing sections as well as track holdings, and weather reports and forecasts. All of this type of information aids handlers in evaluating their opportunities for sale of their supply of cucumbers and in arriving at price.

Governmental and private market agencies supply daily information to all cucumber factors relative to prices at all levels of distribution, car and truck shipments and unloads, production data, weather reports, and any other market information which may affect the cucumber market and tend to influence prices. Such daily market news information is issued in the form of radio reports, newspaper and trade paper releases, and via the mail. All Florida cucumber factors keep informed, not only with respect to market conditions at Florida shipping points and markets, but also in terminal markets and in competing areas of production, both domestic and foreign. Both shipping point handlers and receivers are well aware of

market conditions at all levels through their close attention to and use of modern communications. Such handlers with the use of their market information quote, offer, bargain, buy, and sell cucumbers and thereby create an institution commonly referred to in the trade as the "cucumber market." The cucumber market is a combination of all of the factors that relate to the supply of and demand for cucumbers in the various producing sections in Florida, the supply that is available for immediate marketing, the supply for later marketing, the quality of such supply, the supply of cucumbers in competing areas, with consideration of qualities and availability, prices quoted by sellers at shipping point, in terminal or other receiving markets, as well as at intermediate points, and many other factors which influence both buyers and sellers in helping them to arrive at a meeting of minds which culminates in the sale and transfer of a particular quantity and quality of cucumbers.

The aforementioned factors are interdependent as between shipping points and receiving markets. Any factor which influences the market at shipping point is almost immediately reflected in prices in terminal markets; and in turn, the converse is also true. For example, cold weather or frost at shipping point may slow down the rate of grading and loading to such an extent that buyers will experience difficulty in filling orders and they will bid higher than they otherwise would for remaining supplies. Such resulting increase in shipping point prices will soon be reflected in terminal markets outside the production area. However, should supplies of cucumbers in competing areas be ample and available to fill any temporary shortage created in Florida supplies, prices in terminal markets and, in turn, at Florida shipping points may not change appreciably. Because of modern communication, the complete coverage of market information, and the large number of factors, shippers and receivers, buyers and sellers, in the cucumber business, sales prices for given qualities and packs of cucumbers soon became common knowledge. As a result, and it is well recognized, that a sale of a particular quantity of cucumbers in a market within the Florida production area influences or tends to influence all other sales of cucumbers in Florida as well as in markets outside of the State.

Changes in the supply of cucumbers being marketed at any particular time and changes in estimates of cucumber supplies available for market affect the price of cucumbers. Changes in the supply of cucumbers grown in the Florida production area, or any part thereof, have a direct effect on both terminal market and shipping point prices for all cucumbers. Cucumbers grown in any portion of the production area and marketed at any given season compete with any other cucumbers marketed at the same time no matter whether such cucumbers are grown in another producing section within Florida, or outside the State.

Few cucumbers grown in the production area are produced for any other outlet than the tablestock market. A few cucumbers, principally of the Kirby variety, are produced specifically for processing. Production of such varieties is largely dependent on prior contracts with processors since they are not of an acceptable table stock shape and color. A relatively small quantity of tablestock cucumbers (136,000 bushels during the 1954-55 season) was delivered to processors. Such latter quantity consists generally of cucumbers which have been picked over, having been discarded as culls in the tablestock grading operation. Such sales of cull tablestock cucumbers to processors is a salvage operation by the packer and the prices paid him are extremely low as are any subsequent returns to growers.

It is a common practice for handlers to load cucumbers at shipping points within the State and to ship such cucumbers to markets within the State such as Tampa or Jacksonville and then, before or on arrival at such markets, to divert the shipments to markets outside the production area. Conversely, shipments originally destined to markets outside the State may be diverted and disposed of within the State. This practice of diverting shipments from the originally intended destination occurs frequently, especially among truckers who are able to divert quickly in response to local price opportunities and offers. It is impossible in many cases, at the time cucumbers are sold to a trucker to determine finally whether such cucumbers will be transported and sold within the production area or to a point, or even several points outside the production area.

Many truckers haul mixed loads which include cucumbers and the destination of the several commodities being transported may be entirely dependent upon prices quoted and offered at a number of different locations. Hucksters and other truckers commonly make cash purchases of low quality cucumbers from packing houses. The final destination of such sales is not ordinarily known, but they become part of the cucumber market and either move to markets outside Florida or they directly burden interstate markets for cucumbers.

A considerable quantity of Cuban cucumbers is imported into the United States through Florida ports. On arrival, a large portion of these imported cucumbers are repacked in Florida packing houses, then loaded aboard cars or trucks and transhipped to markets outside of the production area. Such cucumbers are repacked in the same markets, and in the same packing houses within the production area as Florida cucumbers, and both are frequently loaded on the same cars or trucks, follow identical routes, and are sold in the same markets. A number of Florida shippers and packers handle both Florida and imported cucumbers. Some imported cucumbers are sold for disposition within Florida at the time the Florida cucumber deal is active.

The phenomena of sale and movement constitute the market for cucumbers and the interdependence of markets both

within and outside the State directly burdens, obstructs and affects interstate commerce. Factors making up the market for cucumbers constitute commerce which is so completely interspersed that all sale and movement of such cucumbers are either in the current of interstate or foreign commerce or directly burden, obstruct, or affect such commerce and therefore all such movement and sale of cucumbers grown in the State should be subject to the authority of the act and of the marketing agreement and order which may be issued pursuant thereto except where specifically excluded.

(2) Prices for cucumbers grown in Florida have fluctuated rather widely during the past several years, reflecting marketing conditions which generally have resulted in returning season average prices to growers below parity equivalent prices. Production and price statistics for Florida cucumbers are reported by the Agricultural Marketing Service, United States Department of Agriculture, on the basis of three seasons within each crop year; namely, late fall, winter, early spring. For the past 11 late fall crops, the average price received by growers for Florida cucumbers has ranged from 40 to 129 percent of the parity equivalent price, exceeding 90 percent only in 1945 and 1951. The average price of the 1955 late fall crop, \$2.25 per bushel, reflected 70 percent of the parity equivalent price. During the last 7 winter-crop seasons since 1950, the season average price for cucumbers has ranged from 49 to 131 percent of parity. Winter crop prices have exceeded parity in 1951 and 1952 and reached 98 percent of parity in 1954.

In 1956, the ratio of average price for the winter crop of \$4.42 per bushel to the parity equivalent price reflected 71 percent which is the second lowest ratio in the short 7-year winter crop price series.

Early spring cucumber prices have, on the average for a season, exceeded the parity equivalent price in only 1946 and 1956. During the past eleven seasons, season average prices of early spring crops have reflected from 60 to 127 percent of parity with the 1956 average price of \$3.65 per bushel the latter figure.

When data for the three crop seasons are combined, the average price-parity price ratio has, for the last eleven seasons, exceeded 100 percent only during the 1945-46 crop season or immediately subsequent to World War II. During three other of the combined seasons, including the most recent (1955-56), the average price has reflected 97-98 percent of the parity equivalent price.

Another indicator of the unstable farm price structure for Florida cucumbers is set out in a Florida Agricultural Experiment Station report (Exhibit 11) which shows net returns to growers in seven selected producing areas in Florida during the five seasons, 1950-51 to 1954-55. The report shows that, in the Immokalee area, the costs of producing and harvesting a bushel of cucumbers have exceeded the returns from sales in four of the above five seasons; in the Manatee-Ruskin and Sumter areas, net returns

show a loss in three of the five seasons; losses are shown for two of five seasons in the Alachua and Fort Myers areas (Negligible gains were reported in two of the remaining seasons in the Fort Myers area); and losses are reported for one season in the Pompano section. (The data reported from the Sumter area is applicable only to sales of trough-grown cucumbers).

Cucumber growers and shippers do not, for the most part, sell their produce on the basis of the U. S. Standards. It is common practice throughout the proposed production area to pack and sell cucumbers under such terminology indicating quality as "fancy," "choice," or "plains." The term fancy (or extra fancy) when applied to a cucumber package merely means that the contents of such package were the best quality available for packing at a given time; that if the general level of quality should improve on the succeeding day, yesterday's "fancies" might be called choice on the basis of today's packout. Nevertheless, there is no doubting the fact that sales of the best quality produce provide the highest returns to growers, while sales of less acceptable grades and sizes are discounted. This is clearly borne out by packing house records submitted by growers, shippers, a cooperative, and substantiated by market news reports.

Returns paid to growers by a cooperative illustrate both the wide fluctuation in cucumber prices over a short period and the price differentials based on quality. For example, on October 29, 1953, the cooperative returned \$4.89 per bushel to its members for fancy quality (the peak for the fall season), \$2.77 for choice, and \$1.08 for plains. On November 16, the return for fancies was \$2.07 per bushel and by the 27th of November, 1953, reached a low of \$0.31 per bushel. In the spring of 1954, fancies returned a high of \$5.05 on April 8; choice, \$2.55; and plains, \$1.05. Fall crop cucumbers in 1954 reached a peak of \$6.10 per bushel return to growers on October 13; choice returned \$3.10, with plains \$1.00 less. In two weeks the returns for fancies had dropped more than \$4.00 per bushel to \$1.99, and on November 7 the cooperative paid growers \$0.97 per bushel for fancy quality. Data for both the spring and fall seasons of 1955 indicate similar experience. In numerous instances during periods of low prices, growers actually received a bill from the cooperative for packing choice and plains, and, in one case, the price of fancies did not cover packing house charges.

On a number of occasions, the prices received by growers for their cucumbers did not cover harvesting costs. Frequently, during each season as indicated by the price data submitted by the cucumber growers' cooperative, there were no returns to growers for plains which were dumped for lack of sales. However, this usually occurred too late to help improve prices of better quality cucumbers.

The advantages derived from the sale of high quality cucumbers can be readily ascertained from an analysis of the sales and receipts of a number of growers who submitted such data at the hearing.

During the 1954-55 season, the records of two growers reveal that the 68.2 percent of their volume of marketings which were sold as fancy (including cartons) cucumbers returned 78.7 percent of their total receipts. For the eight growers who submitted 1955-56 sales data, the fancy (including cartons) cucumbers which constituted 71.0 percent of total cucumber marketings accounted for 82.9 percent of total receipts. To put it another way, 21.7 percent of the crop (that portion of less than fancy, including carton, quality) accounted for only 13.8 percent of total sales receipts. Choice quality which represented 17.1 percent of the 1955-56 sales volume for eight growers, realized 12.1 percent of their returns.

Florida cucumber growers and shippers have not made extensive use of the grade terminology in the U. S. Standards for Cucumbers as a basis for trading. Also, only a relatively minor portion of total shipments have been subject to inspection and certification by the Federal-State Inspection Service in the past. The use of non-standard grade terms in the cucumber industry has resulted in demoralizing marketing practices creating the need for an order. Inspection coupled with grade and size regulation would help immeasurably to restore confidence in the cucumber trade as to commerce in this commodity.

The proponents of the proposed order have shown that an agreement, when properly administered, would serve to limit the volume by restricting size, grades, and qualities of cucumbers marketed thereby benefiting growers' returns. Their position is that poor or undesirable grades and sizes should be restricted when prices are low. Growers generally are critical of the present lack of standardization of grades and packs as a marketing practice which is injurious or depressing to growers' returns. The lack of standardization results in lack of confidence on the part of buyers and unduly depresses prices and returns to those growers whose cucumbers are graded and packed according to acceptable standards. A large portion of Florida cucumbers are sold by wire or over the phone. That portion of the industry which sells poor grades and packs can and does underquote others and, by doing so, forces the general level of prices down.

The proponents of the proposed order take the position that cucumbers of quality below the U. S. No. 2 grade should never be shipped. Any cucumbers below "plains" should not be permitted to enter fresh market channels under any circumstances because each unit of low quality cucumbers tends to substitute a lower value unit for a higher quality, higher value unit of cucumbers. Substitution of low quality cucumbers for produce of higher quality tends to depress prices of and returns to growers for the better quality produce. Also, consumers do not receive full value from their expenditures for low quality cucumbers. The general manager of a cucumber growers' cooperative stated that, during mid-April 1956 when cucumber prices were relatively high, the

lowest grade shipped were the so-called "plains." "Plains" are considered by the trade as roughly corresponding to the U. S. No. 2 grade.

During the fall of 1953, growers who were members of the cooperative would have received higher returns had they shipped no plains, and possibly nothing but fancies, during and after the middle of November. There were instances when the grower received a bill for packing charges for choice, plains, and even fancies. During the spring of 1954, prices of cucumbers started off at a fairly high level, but prices dropped rapidly so that the cooperative's packing house was closed in the first week of May during that season. Not more than one-half of the crop of the members of the cooperative had been harvested at the time of closing. Other shippers actually dumped carloads of cucumbers that had already been packed and loaded.

During the fall of 1954, growers frequently lost money when plains and other less desirable grades and sizes were packed and sold. Even during the spring of 1955, considered a good season, losses were reported for some of the low grades, including plains. During the fall of 1955 the price level for cucumbers was so low that almost every grower lost money.

The Florida cucumber industry needs standardization of grades and packs. As a constructive improvement in orderly marketing practices, the United States Standards for Cucumbers are available and, in general, are satisfactory. However, unless a purchaser specifically requests inspection, the service is not customarily used in the case of cucumbers. The proponents have established the need for standard grades and packs. However, not all of the industry will support voluntarily a program of this type. Those persons who insist on continuing the present system can, by packing other than standard packages, upset the whole marketing price structure for cucumbers. As high as 90 percent of the cucumbers are sold by wire or telephone. Those shippers who pack and sell a standard pack which contains good quality throughout individual packages, or a constant quality within a package, are at a temporary disadvantage in quoting prices to their customers, in seeking new customers, and in conducting business over the telephone in trying to compete with those individuals who, for example, put up a choice package and label it as fancy, or who top off a package with fancy cucumbers when the remainder of the package might be of lower quality. The substantial variation in quality of that quantity marketed as a given grade, such as "fancy," has created a wide range in prices for "fancy" cucumbers. The wide price range makes difficult price agreement between buyers and sellers for a particular quality of cucumbers and such wide range can be and often is used to force the price of better quality cucumbers to the lower limits of the price range to the ultimate detriment of growers' returns. Recently the term "extra-fancy" has come into

common use. In order to gain temporary price advantage, some shippers have adopted this term, stamping it on the lids of their fancy packages. In order to compete, other shippers have followed with the use of the term "extra-fancy" without necessarily increasing the quality of the cucumbers in these packages.

The fact that there is no standardization of grades commonly in use and that there is no limit on minimum and maximum quality factors for a particular grade, such as "fancy," has enabled some shippers to undercut prevailing prices of their competitors' produce. It is common practice in the cucumber industry for a shipper to sell a lower quality cucumber than one of his competitor's while, at the same time, stamping the same grade on the package. He then represents his produce as fancy, the same as his competitor, but because he is selling a lower quality, he either underprices his competitor or forces the price of his competitor's better merchandise down to the level of the price he is asking for his produce. This, of course, is reflected back to the grower of the higher quality cucumbers whose returns are discounted as a result of this practice.

The quantity of cucumbers available on the market at any given time, either daily or seasonally, has a direct effect upon the price which producers receive for their cucumber crops. Florida producers grow a major portion of the domestically grown cucumbers during the late fall, winter, and early spring seasons covering the period November through May. The quantity of cucumbers put on the market by Florida producers or handlers also has a direct effect upon the price of all cucumbers, particularly the price which Florida growers receive for their crop. The price of cucumbers in the market is a direct result not only of the total quantity of cucumbers being marketed, but also of the quality of cucumbers as reflected by the different prices paid by grades and sizes for such cucumbers. Certain grades and sizes of cucumbers return higher prices to producers than other grades and sizes. For example, U. S. No. 1 quality cucumbers normally return a higher price than U. S. No. 2 grade cucumbers, and a considerably higher price than cucumbers which are of lower quality than U. S. No. 2. Such low quality cucumbers are commonly referred to in trade circles as culls and sometimes as "cootertails."

Shipments of underdeveloped and overripe cucumbers have the same detrimental effect on returns to growers as do other poor quality or undesirable sizes or shapes of cucumbers.

It is common and usual practice among the great majority of handlers to eliminate the low grades, off-shapes, and overripe stock, and in many cases even the "plains" also, when they are grading cucumbers for market. Such poor quality cucumbers and discounted sizes and shapes and undesirable maturity are removed. Experienced handlers have found that it pays them to do so because the adulteration of the

better packs, which constitute the bulk of their crop, with the poorer grades, maturity, and sizes forces the price down on all of their sales. However, some handlers continue to sell culls and off-sizes because they frequently are able to buy them at exceptionally low prices from the grower and to sell them at a small discount from average prices, thereby giving the handler as much or even a greater margin than they could expect from handling usual good quality and the more desirable sizes of cucumbers. The withholding of poor grades and undesirable maturities and sizes of cucumbers from markets in effect reduces the available market supply of such cucumbers. By reducing the quantity being marketed as well as eliminating discounts from average price, growers' prices for cucumbers are thereby improved.

The sale of cull cucumbers tends not only to return discounted prices to growers, but also give only limited satisfaction to consumers and such sale operates against repeat sales. It is not in the public interest to sell cull cucumbers under normal conditions because the evidence shows that consumers fail to obtain proper value for their expenditures as compared with purchases of good quality cucumbers.

Prices to Florida cucumber producers and total returns of such producers could be augmented by handling only the more preferred grades, sizes, and maturities of such cucumbers. Voluntary efforts have been made and practiced by individual producers and handlers in Florida to eliminate some of the culls especially when the average price level to Florida cucumber producers was low, but such voluntary efforts did not raise producers' prices and returns appreciably, since other handlers continued to ship culls and off-sizes to the detriment of all other cucumber producers and handlers and contrary to the public interest of the Florida cucumber industry.

The orderly marketing of cucumbers grown in Florida has been disrupted and the purchasing power of the producers thereof has been impaired by reason of the handling of certain grades, sizes, qualities, and maturities of such cucumbers which have adversely affected prices returned to cucumber producers.

A marketing agreement and order is necessary to authorize regulation of the sale and transportation of cucumbers grown in Florida so that more orderly marketing conditions for such cucumbers may be established. The establishment of more orderly marketing conditions as brought about by marketing agreement and order regulations will tend to establish parity prices for cucumbers grown in Florida. A marketing agreement and order authorizing regulation of the handling of cucumbers will assist the Florida industry in establishing and maintaining such minimum standards of quality and maturity and such grading and inspection requirements for cucumbers grown in the production area which will effectuate such orderly marketing of such cucumbers as will be in the public interest. The adoption of a marketing agreement and order

program by handlers of Florida cucumbers and the approval of such an order by Florida cucumber producers will tend to promote more orderly marketing of such cucumbers and it will be in the public interest. It is hereby found that the marketing agreement and order as hereinafter set forth will promote more orderly marketing of Florida cucumbers and the operation of such a program will tend to establish and maintain such orderly marketing conditions for Florida cucumbers as will establish, as the price to farmers, parity prices for such cucumbers.

It is alleged in the brief on the evidence filed on behalf of the opponents that: (1) When Cuban cucumbers are coming in during the winter months, practically all of the U. S. production is in District No. 1; and (2) the principal competition of District No. 1 is from Cuba and not from proposed Districts 2, 3, and 4.

The importance to the United States of District No. 1 (Lower East Coast) as a winter cucumber crop producing section has been overrated by the opponents. During the past 11 crop years, 1945-46 through 1955-56, District No. 1 has been the most important producing section for Florida cucumbers in four winter seasons; District No. 2 (Immokalee-Ft. Myers) has been the most important cucumber producing section in five seasons. On two other occasions, acreage in each of these two districts was approximately equal.

The Lower East Coast, on the average, has accounted for about 12 to 25 percent of total cucumber acreage for an entire season for the production area as a whole. During the past 11 seasons, total acreage for fresh market in District No. 1 has ranged from 1,490 to 3,300 acres of cucumbers. For the production area, fresh market acreage has ranged from 10,170 to 16,355 acres. At no time during the 11 seasons cited has the Lower East Coast been the most important producing section in the production area.

In addition to the above, the fall and spring crops of cucumbers in District No. 1 have been greater than the winter crop in the majority of seasons. During 8 of 11 seasons and 6 of 11 seasons, respectively, the acreage of the fall and spring cucumber crops grown in District No. 1 have been greater than the winter crop. This fact is supported by exhibits introduced by opposition witnesses at the hearing which indicate that approximately 10 percent of their 1955-56 crop sales occurred during January, less than one percent in February, and slightly more than 17 percent in March, or a total of less than 28 percent of their total sales volume occurred during winter of 1956. Their volume of sales was high during December 1955 which accounted for 29 percent, and reached a peak in April 1956 when about 40 percent was sold.

(3) The term "cucumbers," as used in the proposed order, identifies the agricultural commodity to be regulated and distinguishes it from other agricultural commodities. The term "cucumbers" should be defined to mean all varieties of the edible fruit (*cucumis sativus*)

which are commonly referred to as cucumbers and which are grown in the production area. Cucumbers are one of the principal vegetable crops grown by producers in the production area. Reference to "cucumbers" has a common and specific meaning to all growers and handlers in the production area as well as in other parts of the country. However, the definition should be limited to those grown in the production area, since cucumbers produced in other portions of the United States are not proposed to be regulated. The definition of cucumbers, as set forth in the marketing agreement and order, establishes the identity of the agricultural commodity for which regulation is authorized. It includes all varieties of cucumbers grown in the State of Florida, south or east of the Suwannee River, whether produced for fresh market or other outlets.

Some testimony was introduced at the hearing to the effect that all cucumbers imported into the production area from Cuba, from Florida points outside of the production area, or from any other domestic or foreign source, as well as those grown within the production area, should be included within the definition of "cucumbers" and thereby made subject to the authority of the order.

The maximum limitation as to the area of coverage in connection with the present proceeding was fixed in the notice of hearing, which was specified as the presently proposed production area. Cucumber producers and shippers in other portions of the continental United States were not, therefore, afforded the necessary advance warning that they might be included under the regulation and thereby afforded notice and opportunity to appear and testify and otherwise represent their respective interests. It would, therefore, be legally impermissible to include any additional portion of the domestic cucumber production in any event. This contention as to the inclusion of additional domestic production seemed to be related to the contested addition under regulation of the remaining portion of Florida not presently proposed to be included, which portion lies west or north of the Suwannee River. As is developed more fully below, it is concluded that the portion last referred to should not be covered under the presently proposed regulation in any event.

Although regulation of the grade, size, quality, and maturity of imported cucumbers on the same or comparable basis as Florida cucumbers will be mandatory as provided in section 8e of the act as added by the Agricultural Act of 1954 (68 Stat. 906, 1047) should the proposed order be issued, such regulation of the imported commodity would not only be incidental to, but would also be beyond the scope of the authority of the proposed order. In other words, any such regulation of imports would be wholly within the province of the Secretary, except that he would impose on imports the same or comparable restrictions as to grade, size, quality, and maturity as are imposed under the order.

This definition establishes the commodity to which the handling activities

related thereto are subject to the authority of the order. The act authorizes marketing agreements and orders applicable to cucumbers, or to any regional or market classification thereof. Cucumbers of all varieties which are grown in the proposed production area constitute a regional classification of cucumbers and regulation of the handling of such cucumbers as authorized by the order will tend to effectuate the declared policy of the act. Cucumbers therefore should be defined in the order to mean all varieties of cucumbers grown in the production area.

The term "production area" should be incorporated in the order as a means of specifying the area within which cucumbers must be produced before the handling thereof is subject to regulation thereunder. Production area should be defined to include all territory within the State of Florida south or east of the Suwannee River.

According to the 1954 census of Agriculture, 63 percent of the Florida farmers reporting cucumber production and 90 percent of the cucumber acreage grown within the State is contained in the production area delineated in the proposed marketing agreement and order. During the eight seasons from 1947-48 to 1954-55, rail and truck shipments from the production area accounted for more than 99 percent of commercial cucumber shipments from the State of Florida.

Considerable controversy developed at the hearing as to the exclusion of west Florida (the area within the State west of the Suwannee River) from the production area. It was testified that a large portion of the production grown in west Florida is disposed of in processing, mainly pickling, outlets. Also, the relatively small production in west Florida is for the most part noncompetitive with sales of cucumbers grown in the production area in that they are marketed late in the spring, late May and June, following the cucumber deal in the production area or in the early fall, in a small way, prior to fall crop marketings in the production area. West Florida cucumbers compete more with those grown in Georgia and other nearby States.

The production area thus defined contains most of the major table stock cucumber producing counties of commercial importance within Florida. Although cucumbers are not now grown commercially in some of the counties within the production area, such counties contain land areas capable of supporting commercial production of cucumbers and, as such, are potential growing areas on a competitive basis.

There may be minor variations in practices and methods of production, harvesting, and marketing of cucumbers from growing section to growing section within the production area. Nevertheless, grade and size terminology, packing operations, and sales methods are similar or basically the same throughout the production area. For example, cash sales are predominant in the Pompano market area, while most of the business in cucumbers is conducted on a telephone basis in the Wauchula or Fort Myers sections. However, both sales methods

are not unusual in any of the producing sections in the proposed area where cucumbers are sold. No producing section has a marketing season which is entirely separate and apart from the other sections' marketing seasons as shown by the tabulation of monthly rail and truck shipments for the various Florida cucumber producing areas. Each section within the production area has to share and compete in common markets at the same time as one or more other sections.

Natural geographic and political boundaries favor the establishment of the proposed production area as defined. The production area consists largely of the peninsula portion of the State of Florida bounded on the east, south, and west by the Atlantic Ocean and the Gulf of Mexico, on the northwest by the Suwannee River, and on the north by the State of Georgia. The Suwannee River and the State boundary do not bisect an important cucumber producing area. In addition, enforcement of regulations is favored by the fact that road guard stations, operated by the Citrus and Vegetable Division, Florida State Department of Agriculture, are strategically located at a number of highway outlets, generally at highway intersections or river crossings, leading out of the production area. Also, the number of rail outlets from such area is limited. There is no reasonable method or basis for dividing the production area into two or more areas for purposes of separate marketing agreements and orders. All territory included within the boundaries of the proposed production area constitutes the smallest regional production area that is practicable, consistent with carrying out the declared policy of the act, and the production area, therefore, should be defined as hereinafter set forth.

(4) "Handler", synonymous with "shipper", should mean any person except a common or contract carrier of cucumbers owned by another person who handles cucumbers or causes cucumbers to be handled. Handler should be defined in the proposed marketing agreement and order because regulation is at the handler level. The act authorizes the regulation of handlers only, specifically excluding producers in their capacities as producers. Any person engaged in the act or acts of handling or shipping cucumbers, or who causes cucumbers to be handled or shipped, should be considered to be a handler. Such persons are responsible for the grade, size, quality, maturity, and packs of cucumbers delivered to transportation agencies, or which are sold or transported in the current of interstate or foreign commerce, or otherwise so as directly to burden, obstruct, or affect such commerce, and such persons are handlers.

Common or contract carriers transporting cucumbers which are owned by another person are performing a handling function, but such handling should not be regulated under the order because they are not responsible for the grade, size, quality, maturity, or pack of the cucumbers being transported. Neither are they responsible for the introduction of such cucumbers into the stream of interstate or foreign commerce. Also, the

sole interest of common or contract carriers in such is to transport the cucumbers for a service charge to destinations selected by others. The responsibility for the grade, size, quality, maturity, and pack of such cucumbers delivered to a common or contract carrier should be borne solely by the person or persons responsible for delivering such cucumbers to the carriers.

Of course, the usual packers and shippers would be considered as handlers because they are directly responsible for the preparation for market of cucumbers, and for the sale and transportation. A person who is merely complying with the orders issued by a superior should not be considered as a handler. A packing house foreman who is following instructions in issuing orders to graders and packers is not a handler. A truck driver for a packer is not a handler if he is transporting cucumbers on someone else's orders. However, a trucker who buys cucumbers and subsequently transports such cucumbers out of the production area is a handler because of the act of transporting such cucumbers in trade channels. Therefore, the term handler or shipper should be defined to mean any person (except a common or contract carrier of cucumbers owned by another person) who handles cucumbers or causes cucumbers to be handled.

"Handle" (or "ship") should be defined in the proposed order to spell out activities or transactions by handlers which come within the scope of the regulatory authority of the proposed program.

The great bulk of cucumbers grown in the production area normally are prepared for market in established packing houses, whether of the so-called small "bath tub" type, farmer packing houses, or commercial packing plants.

The running of such cucumbers over a mechanical grader, or the preparation of such cucumbers for market by any other means, should come within the definition of handle, because such activities determine the various outlets to which cucumbers go and they have a direct effect upon the price which cucumber growers shall receive for their crop. The matter of compliance with regulations which are authorized by the order can be determined by the handler who is grading or preparing such cucumbers for market. The primary responsibility for the grade, size, and quality of cucumbers in any given unit, or in any given lot rests with the person or persons responsible for the grading operation and for the kind of cucumbers which are put in the basket or other shipping unit.

The act of selling such cucumbers makes the person who effects the sale a handler because such sale directly affects the market for cucumbers. The transportation of cucumbers also has a direct bearing on the market and the movement and sale of cucumbers, regardless of whether such sale or movement is within or outside the production area, is so mixed that such activities cause such cucumbers to become a part of the stream of interstate commerce.

Handle should include all shipping activities. The handling of cucumbers

under the order should begin when cucumbers start their movement from the field where grown and continue until such cucumbers leave the production area. However, there are exceptions to this general rule as spelled out in the definition of handle. Handle should also mean the sale of cucumbers grown in the production area at any point between the time that they begin to move from the field (usually immediately subsequent to harvesting) until they leave the production area.

There was testimony against authority for regulation within the production area. The general tenor of the testimony was to the effect that the objectives of the act and a program of the proposed nature could be accomplished through the regulation of that portion of the cucumbers which are shipped out of the production area. This latter quantity constitutes a high proportion of the total volume of shipments. The quantity of cucumbers shipped to and consumed in Florida markets within the production area is of minor importance as compared to the portion leaving the area. The non-regulation within the production area would also obviate what would be an otherwise difficult problem of enforcement and a burden on handlers. The deletion of the words "within the production area or" from the definition of handle as set forth in the notice of hearing would accomplish the above intent.

The growing and harvesting of cucumbers in the production area are properly producer functions and, as such, are exempt from regulatory authority of the proposed program. Picking cucumbers is normally considered part of harvesting and therefore a grower function. However, picking is an essential preliminary to the preparation for market of cucumbers. For example, it is a practice of itinerant truckers to buy cucumbers directly at the field where grown. The grower who sells cucumbers in this fashion should be considered as a handler, because he has made a sale of cucumbers which were prepared for market to the extent that some of the poorest quality, have been removed in picking and filling of the burlap sacks, baskets, crates, or cartons. Such cucumbers, even though they have not been over a grader, or through washers and waxers, are in an acceptable form as far as the buyer is concerned, whether itinerant trucker or other person. Also, the trucker who buys such cucumbers is a handler, because he is responsible for the transportation. Both the grower, who in this case is a handler, as well as the trucker should be held responsible for compliance with any regulatory obligations of the marketing agreement and order.

With two exceptions, all grading or preparation for market, transportation or sale of cucumbers should come within the scope of the meaning of handle. The two exceptions, set forth in the definition of handle, are contained in other marketing agreement and order programs and should provide a reasonable basis for the placing of the responsibility for compliance with regulations which relate to grade, size, quality, ma-

turity, pack, inspection, or assessments. Cucumbers being transported, sold, or delivered to registered packing houses or to auction markets within the production area designated by the committee should be exempt from handling and from all regulation under the marketing agreement and order. In the case of the two exceptions, cucumbers are not being transported to market for immediate consumption and such cucumbers are subject to washing, waxing, grading, and packing following their sale at auction or their delivery to packing houses. The auction buyers and the packing house operator are handlers because each is responsible for preparation for market. Such persons determine the grade, size, and pack of cucumbers entering market channels. No useful purpose would be served by attempting to include within the definition of handle the activities leading up to and including sale of cucumbers at auction markets or delivery of cucumbers to registered packing houses within the production area because such cucumbers are not in the usual form in which the bulk of the crop is marketed. Since they have not been through the grading process most sellers and buyers do not consider them as usual or appropriate products for commercial trade and, as such, they have not yet entered the channels of commerce. In order to maintain control of such handling, it is necessary that grading be performed within the production area.

Some growers who sell picked cucumbers from the field are handlers and, as such, should be held responsible for compliance with any rules and regulations issued pursuant to the order. If a grower sells his unharvested crop of cucumbers in the field, he should not, under any circumstances, be considered a handler of those particular cucumbers because he has no connection with the grading and marketing of them. If, however, a grower should make a sale of picked cucumbers from the field to a handler registered with the committee, such registered handler should be the first handler of cucumbers and the grower would have no obligations under the order. Such registered handler should assume any regulatory burdens with respect to such items as payment of assessments, inspection and certification, and compliance with grade and size regulations.

It is common practice for producers not having packing facilities of their own to sell or deliver their cucumbers to persons having facilities for packing and otherwise preparing the commodity for market, i. e., to persons who are generally recognized as cucumber handlers. The producers, in such instances, properly rely on the persons preparing the cucumbers for market to see that, when they are shipped, they meet all applicable requirements for marketing. Thus, there should be excepted, in such instances, the movements of cucumbers from the fields to the places where they will be prepared for market. It will be necessary, however, to limit the scope of this exception in order to insure compliance with the regulations established

under the program. Hence, it should be recognized that the facilities where the cucumbers are to be prepared for market must be located within the production area. Otherwise it would not be practicable for the committee to check effectively on the disposition of the cucumbers delivered to the packing facilities which did not meet the program requirements. Also, this exception should apply only in case the person engaged in the preparation of cucumbers for market has registered with the committee in accordance with such rules as it may, with the approval of the Secretary, prescribe. It is intended that the committee, under its rules, will register all handler-applicants whom it is reasonable to believe will conduct their packing and handling operations in accordance with the program requirements. It is also intended that all recognized handlers and other prospective handlers desiring to conduct their business in the usual or customary manner will register with the committee in order to enable them to obtain cucumbers without their having to meet program requirements at the times of deliveries by producers or others.

It is anticipated that the registration action, with its attendant benefit, will be of primary importance to handlers who handle cucumbers which are delivered to them by other persons as the producers. In the cucumber industry, there are, particularly in proposed District No. 1, a number of cucumber producers who pack and sell their own production. Many of such producers have packing facilities and machinery which compare favorably with the facilities of persons who are engaged in handling production of other producers as well as their own. Any such handlers of the type last referred to who might desire to register as such with the committee should be permitted to do so, provided, of course, they meet the other requirements for eligibility which are indicated above as being necessary.

In the brief filed on behalf of the opponents, it was contended that the proposed registration "would force the growers in District No. 1 with packing facilities on their farms to abandon their own facilities and use one of the seven or eight packing houses operating around District No. 1 area". Such a result is not contemplated or intended. Insofar as equipment is concerned any person, including the so-called "bathtub" operator, who has reasonably adequate facilities for preparing cucumbers for market should be entitled to be registered with the committee as a handler. Of course, registration with the committee should not be a necessary prerequisite to handling. In other words, any person who desires to do so should be permitted to handle, the only purpose of registration being, that a registered handler would obtain the extra benefits outlined above.

The picking, packing, loading, hauling, or any other handling or movement of cucumbers from the spot where grown places them in commerce by virtue of such movement and, in addition, such activities, with the exception of the activities heretofore indicated, cause the cucumbers to become a part of the visible supply of cucumbers which are

available for market, and directly burdens, obstructs, or affects interstate commerce. The sale of such cucumbers at any time during these initial marketing activities continues such cucumbers in commerce, because such sale constructively moves the cucumbers in the stream of commerce from the seller to the buyer or consignee and actual movement of such cucumbers in the stream of commerce pursuant to the instructions to the buyer or consignee constitutes sale or transportation, or both.

All cucumbers grown in the production area, which are produced for fresh market, are graded or prepared for market and such processing activities are handler functions in the marketing of such cucumbers which are included in the definition of handle.

With the exception of the processes or activities specifically excluded from the definition of the term handle, all such activities, from the time cucumbers grown in the production area are picked until they move outside of the production area, should be included in the process of handling. The proposed definition of handle in the order does not include the sale at retail of cucumbers by a person in his capacity as a retailer. The activities of a producer, including the growing and the harvesting of cucumbers, are not included in the definition of handle, because such activities are construed as falling within the capacity of a producer as such.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the order. Those terms should be defined for the purpose of designating specifically their applicability, and establishing the approximate limitations of their respective meanings wherever they are used.

The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all of the functions and duties which are imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The proposed definition of "act" provides the correct legal citation for the statute pursuant to which this proposed regulatory program is to be operative, and makes it unnecessary to refer to such citations thereafter.

The proposed definition of "person" follows the definition of that term as set forth in the act, and will ensure that it will have the same meaning as used in the act.

"Producer" should be defined to mean any person who is engaged in a proprietary capacity in the production of cucumbers within the production area and who is producing such cucumbers for market. A definition of that term is necessary for appropriate determinations as to eligibility to vote for, and to serve as, a member or alternate member of the committee, and for other reasons.

The term should be limited to those who have an ownership interest in cucumbers produced in the production area. It should not include laborers or others who perform work for a fee or for hire in producing cucumbers.

Numerous credit and financial arrangements are currently existent among persons connected with the growing and marketing of cucumbers in the production area which complicates the problem of determining who is a producer and who is not a producer for the purposes of the order. A producer should be any "person" who, in a proprietary capacity, produces cucumbers for market. "Person" is proposed to be defined as an individual, partnership, corporation, association, or any other business unit—each of which should be considered a legal entity. Each legal entity, whether an individual, a partnership, "joint venture", or a corporation, so engaged in the production of cucumbers for market should have, for example, one voice in selecting committee members and alternates in one district.

The appropriate test for determining whether or not a person is entitled to be called a producer is whether he has the title to the particular cucumbers. A person who owns and farms land resulting in his ownership of the cucumbers produced on such land should clearly be considered as the producer of such cucumbers. The same is true with respect to a person who rents and farms land resulting in his ownership of all or a portion of the cucumbers produced thereon. Likewise, a person who owns land which he does not farm but, as rental for such land, obtains the ownership of a portion of the cucumbers produced thereon, should be regarded as the producer of that portion, and the tenant on such land should be regarded as the producer of the remaining portion produced on such land. In each of the above situations, where the person acquires ownership of all of the particular cucumbers, such person, regardless of whether an individual, partnership, association, corporation, or other business unit, should be considered as one producer and entitled to one vote. However, in cases where the ownership is divided, i. e., where one person obtains ownership and physical possession of a portion of the particular production and another person obtains ownership of the other portion of such production, each such person should be considered as a producer and entitled to one vote.

There are considerable variations in the area of types of partnerships, and "joint ventures" whereunder the crop is owned jointly. The most common type appears to be an arrangement whereby one person puts up all or a part of the capital and another contributes machinery and/or skill. Another arrangement provides that one person is responsible for selling the crop, and the other with growing and harvesting the cucumbers. Capital, machinery, and labor may be contributed in varying degrees by each of the partners. Nevertheless, the partnership in its entity is a producer, and thus should have only one vote the same

as an individual or corporation. Any action with respect to such an organization regarding voting matters depends, therefore, on the partnership agreement and action by the partners pursuant thereto, irrespective of whether the partnership is composed of individuals, corporations, or combinations thereof.

Numerous persons are engaged in cucumber growing operations who are paid for their services on a wage or per unit of production basis. As heretofore indicated, if such persons do not have title to any of the cucumbers, they are merely laborers working for a stated fee and as such should not have a producer status under the marketing agreement and order.

"Grading" and "preparation for market" are synonymous and mean the sorting of cucumbers by hand or mechanical means, or both, so that such cucumbers are separated into grade, size, maturity, and pack. Such classifications are determined by the handler who directs, in person or through his agent, how and in what number of classes the particular lot of cucumbers shall be separated. "Grading" or "preparation for market" is an activity which properly falls within the scope of "handle". Grading may vary from an operation performed entirely by hand in which certain cucumbers are picked out when they are being loaded at the field to a production line operation whereby cucumbers are carried by mechanical conveyor for washing and waxing and thence to a series of moving belts and tables, where sizes are determined and good quality, as represented by grades, sizes, and maturities, or any combination thereof, is separated from bad so that the cucumbers which are to go to preferred price outlets are separated from those going to discounted price outlets. The grading or preparation for market is an operation which applies to all cucumbers grown in the production area, even though the extent to which cucumbers are separated into market classes may vary considerably among the types of ultimate outlets. For example, sales of cucumbers in some fresh market outlets usually result in a lot of cucumbers being carefully graded so that only the preferred qualities and sizes are shipped to such outlets, while the off grades, off sizes, and off shapes may go to less discriminating markets or processing plants which do not require such careful separation into market classifications.

Definitions of "grade" and "size" should be incorporated in the order to enable persons affected thereby to determine the basis for application of grade and size limitations to the product they handle. Grade and size, the essential terms in which regulations are issued, should be defined as encompassing the equivalents of the meanings assigned to these terms in (i) the official United States Standards for Cucumbers issued by the United States Department of Agriculture, and (ii) to modifications or amendments of such standards, and to variations of such standards by regulations under the marketing agreement and order. Regulations under the order could then use such terms (grade, size,

and maturity) with the constant meaning assigned to them in such standards, or in such modified or amended standards, or such regulation can vary such terms by prescribing, for example, a percentage of grade, as may be required at the time of issuing such regulation. Official inspectors are qualified to certify to the grade, size, and maturity of cucumbers grown in the proposed production area, in terms of any one of the aforesaid standards, or modifications, amendments, or variations thereof.

"Pack" should be defined as a basis for distinguishing among the various units in which cucumbers are prepared for market and shipped. That term is commonly used throughout the cucumber trade and refers to a combination of factors relating to grade, size, and maturity of the cucumbers and to the quantities and types of containers. For example, fancy quality cucumbers when put in bushel tubs or baskets is a common or usual pack. Choice quality produce in a wire-bound crate is a specific pack. Another example of a pack is the placing of small fancy cucumbers in a carton. Of course, there are numerous combinations of quality designations (both in terms of current trade usage and the official standards), sizes, maturities, varieties (to a minor extent), and containers. "Pack" should mean and include any of the above mentioned combinations as well as any other pack of cucumbers recommended by the committee and approved by the Secretary. The committee should be permitted, under appropriate rules and regulations, to establish such packs in terms of size tolerances, grades allowed, and weight of contents in their relationship to the unit being marketed.

"Container" should be defined in the order as a basis for differentiating among the numerous shipping units in which cucumbers move to market and for the permissive application of different regulation to such different shipping units. Authority for regulation by type of container was enacted by the 83d Congress, in the Agricultural Act of 1954, as an amendment to the Agricultural Marketing Agreement Act of 1937, as amended. The Florida cucumber industry, as represented by growers and shippers at the hearing, indicated that certain undesirable practices in the marketing of cucumbers relating to net weights and to numerous container types and sizes tend toward market disturbances. Use of the authority enacted in the recent container amendment to the act will provide a basis for alleviation of the problems associated with containers. The principal containers used in marketing cucumbers at the present time, in order of importance, are: (i) The hard-bottom "export" tub (capacity one bushel); (ii) the cartons—"senior", "regular", and "junior" (capacity of the "senior" carton is about one-third bushel, others proportionately smaller); and (iii) the wire-bound crate (capacity 1½ bushels). A few containers of other types are used to a minor extent. It is estimated that more than one-half of the cucumbers shipped out of the proposed production area move in bushel tubs.

It is common practice in the production area for cucumbers to be moved

from the field where grown to packing houses within the area in partially filled burlap sacks. In most instances, such movement would be free of regulation in that the transportation thereof would be to registered handlers. A minor quantity of cucumbers may be moved in "bulk loads". Such bulk loads usually consist of low grades or culls which are collected at the end of the packing house grading operation and are trucked to processing outlets or the cull pile.

The definition of "committee" is incorporated in the proposed order to identify the administrative agency, the Florida Cucumber Committee, which would be responsible for assisting the Secretary in the administration of the program. Such a committee is authorized by the act and the definition of it would minimize the use of words in the order.

A definition of "fiscal period" should be incorporated in the order to establish the beginning and ending of an operating period. The establishment of such a period, which should comprise a full twelve months, is necessary for business-like administration of the marketing agreement and order and is desirable as a basis for establishing the term of office of committee members and alternates. The date marking the end of one fiscal period and the beginning of the new should fall at a time of little or no activity in the marketing of the cucumber crop and should allow sufficient time for the committee to organize and be prepared to function prior to the start of the new marketing season. The date July 31 is after the end of the spring cucumber deals in Florida and the fall planting season begins after August 1. There are no reported commercial shipments of cucumbers being made from Florida during this between-season time of year. It is, therefore, appropriate that fiscal period should be defined as set forth in the order.

"District" should be defined in the order as referring to each of the geographical sections or divisions of the production area, either as initially established or as later reestablished, in order to provide a basis for the nomination and selection of committee members and for regulatory purposes. The presently proposed division into districts is adequate and equitable from the standpoint of the present situation and should provide a practical basis for the purposes intended.

"Export" should be defined in the order as including all shipments of cucumbers beyond the boundaries of the continental United States. Separate treatment for export shipments may be desirable and necessary, because the nature of the demand for cucumbers in export markets may differ from the requirements in the domestic markets and, therefore, different or special regulations, or even no regulations might be justified with respect to such shipments.

Canada is the most important export market for Florida cucumbers. Canadian consumers may prefer different packs than are sold in many domestic markets. Also, the import requirements of Canada or other foreign countries may vary from regulations

recommended by the committee applicable to domestic handling of cucumbers. In order that handlers of Florida cucumbers may be able to meet competition in export markets, and especially in Canada, sufficient flexibility should be allowed the committee in the regulation of such exports, or to provide that relaxation of, or no regulations, be applicable to shipments destined to export outlets.

Territories and possessions of the United States should be included under the term "export" because shipments to such markets would tend to satisfy a different type of demand than domestic shipments. Also there is an insignificant quantity of cucumbers shipped to off-shore possessions which are considered as analogous to shipments to foreign countries.

(b) The order should provide for the selection by the Secretary of an administrative committee, called the Florida Cucumber Committee, composed of eight producer members and four handler members. Establishment of this committee would be desirable and necessary to aid the Secretary in carrying out the declared policy of the act. The establishment of such a committee is authorized by the act. The proposed membership would give cucumber producers and handlers in the production area fair and equitable representation on the committee. The order should also provide for the selection of alternate members, who should be required to qualify on the same basis as the particular individual member for whom he is an alternate.

The proposed committee membership of eight producer members and four handler members was generally supported by the industry as equitable and practicable. Evidence supports the finding that this plan of representation has received intensive study by the industry and that, after thorough consideration, such division of responsibility among 12 such individuals is appropriate.

In order to be eligible for committee membership, each person selected should be a producer or a handler or an officer or employee of a producer or handler (depending on the capacity for which selected). Each such person should produce or handle cucumbers in the district for which selected and reside in the production area.

Some well qualified persons may not reside in the district where their principal interest lies. If such person can otherwise qualify for committee membership, this fact alone should not prevent his selection to represent a particular district, even though his residence is outside of such district but within the production area. Producers and handlers who have the above qualifications should be intimately acquainted with the problems of producing or marketing cucumbers grown in such district and each may reasonably be expected to present accurately the problems incident to production or marketing of cucumbers grown in such district. For obvious reasons, the qualifications for each alternate should be the same as for the respective member for whom he may act. Such qualifications should

help to assure that the interests of the group from which each is selected will be adequately represented in committee deliberations.

Each committee member and his respective alternate should serve a one year term of office ending July 31, and for any additional period needed for the selection and qualification of his successor. Such term of office would be reasonable and would allow the cucumber industry to express its approval or disapproval of the committee's membership at the end of any season and prior to the opening of a new season. At the same time, a one year term of office would not preclude the renomination and reselection of able and popular incumbents. Committee members and alternates should be selected for the fiscal period during which they are to serve and until their successors have been selected and have qualified.

Districts should be established to provide a basis for selection of committee members. The districts as initially proposed and as recommended herein for adoption were worked out by industry spokesmen, and they apparently represent the best basis which could be devised at this time for providing a fair, adequate, and equitable representation on the committee.

The proposed districts as set forth in the order constitute what are generally known and recognized by the cucumber trade as separate and distinct production sections. For example, District No. 1, which included the Pompano market area and Dade County, is referred to as the "Lower East Coast"; District No. 2 contains the "Immokalee-Fort Myers area"; District No. 3 is commonly known as the "Wauchula Section"; and District No. 4 includes the "Alachua-Gainesville Area".

There was some discussion at the hearing as to the advisability of including Okeechobee County in District No. 1. The nearest State Farmers' Market is at Fort Pierce, in adjacent St. Lucie County. Also, The Florida Crop and Livestock Reporting Service in its reports includes the small acreage of Okeechobee County cucumbers with that reported for St. Lucie County, a part of District No. 1. Total shipments reported as originating from Okeechobee County were the equivalent of two carloads during the 1954-55 season.

The provision for redistricting would be desirable because it would allow the committee to consider, from time to time, whether the basis for representation could be improved and how such improvements should be made. The guides set forth in the proposed order which the committee should keep in mind in considering redistricting are appropriate and desirable factors which relate directly to the welfare of cucumber producers and handlers.

The notice of hearing provided, in the section relating to redistricting, that, in addition to the authority for changing boundaries of districts, the committee membership could be reapportioned among the districts. However, testimony at the hearing supports the finding that authority to change the presently pro-

posed representation of two producers and one handler from each district be excluded from the proposed order.

The Florida vegetable industry is a dynamic activity with constant changes in the production pattern. Production of cucumbers and other vegetables in the important Immokalee area reached commercial proportions only a few years ago. A new cucumber production section near Naples appears to be developing. In order to take cognizance of such changes in the future and to provide equitable representation for producers and handlers on the committee, the authority for redistricting should be contained in the proposed order. The provision for redistricting appears adequate to take care of the above eventualities without the additional authority for reapportionment of the committee membership among the several districts. A requirement that any recommendation for redistricting be forwarded to the Secretary on or before February 1, and that he approve such recommendation not later than March 15 in order to become effective at the beginning of the next term of office, is necessary so that producers will have ample time to consider their nominations for committee membership on the basis of realigned districts prior to nomination meetings, which it is intended will be held before July 1 of each year.

The selection of committee members and alternates on the basis of districts as provided for in the proposed order would provide a practical and equitable basis for selection of such members. Such proposed geographical basis should be, and has been, related to the number of producers and the production of cucumbers within the production area so that a practical basis for establishing equity has been reached. Although a preponderance of cucumber acreage or production may exist in one or two districts, other districts may contain a numerical superiority of producers. The evidence at the hearing indicates that, in view of the above, a balanced administrative committee would be selected should each district be provided with the same number of committee members. In this manner, both small and large producers and handlers would receive equitable treatment. The provision that two producers and one handler should be selected as committee members and two producers and one handler should be selected as committee alternates from each district is equitable and meets with the wishes of the industry, as shown by the evidence. The provision that there should be two producers and one handler selected as alternate committee members would provide a practical working basis for having full representation when any member from a district is absent.

A procedure for the election by producers of nominees for membership on the committee should be prescribed in the marketing agreement and order. Such provision is intended to provide for assistance by the cucumber industry to the Secretary in his selection of members and alternates on the committee. It is customary in the Florida cucumber industry for producers to conduct meet-

ings to establish their preferences for positions of trust and responsibility in the industry. The nomination of prospective members and alternates at meetings of producers in the respective districts is a customary and practical method of providing the Secretary with the names of the persons which the industry desires to serve on the committee.

The notice of hearing provides for the nomination of committee members and alternates at a meeting or meetings of producers in each district. Testimony offered with respect to the nomination procedure was quite clear that only producers should participate in the nomination of committee members, regardless of whether they are producer members or handler members. It was argued that, because of the principal objective of a marketing agreement and order program is on behalf of producers, only such persons should have a voice in choosing the individuals nominated to represent their interests. There was general expression that the marketing experience of well qualified handlers, who may not also be producers, should not be denied such an industry group as the Florida Cucumber Committee in its deliberations relating to grade, size and other regulations. For that reason, a minority handler representation should be provided on the committee. It is anticipated that practically all handlers will be qualified to participate in nomination meetings, since it was testified that handlers also generally produce cucumbers.

In order to obtain an indication of the industry's preference for membership on the initial committee, it should be provided that meetings of producers may be sponsored by the United States Department of Agriculture, or by any agency or group requested to do so by the Department. This should afford a practical and appropriate means of initiating movement whereby the industry might express its wishes and preferences with respect to committee membership. Producers should be given reasonable notice that nomination meetings have been scheduled so that they can make plans to attend. Such notice should be given by the committee or other agency requested to do so by the Department. At the start, no committee would be in existence and, hence, would not be available to assume such responsibilities.

Nomination meetings for the purpose of electing nominees for members or alternates on the committee after the initial committee should be held prior to July 1 of each year. Such meetings should be held by the committee or by persons or groups requested by it to hold such meetings.

At least two nominees should be designated for each position as member and each position as alternate so that the Secretary may have a choice in making his selection. In addition, if a selectee should decline to serve, the Secretary would have the name of another prospective member or alternate from which to make a selection. It is the desire of the industry, and it is appropriate, that producers voting at such industry meetings ballot for nominees to indicate the

ranking of their choices for each position to be filled. Nominees lists should be supplied to the Secretary in the form and manner prescribed by him so as to establish administrative uniformity in the handling of such matters. Such nominations for committee members and alternates should be supplied to the Secretary not later than July 15 of each year in order to afford him sufficient time in which to make his selections.

If a person should produce cucumbers in more than one district, such person should select the district in which he wishes to cast his vote for nominees on the committee. Any other procedure would tend to give such person a greater voice than other producers in the nomination of committee members.

Each producer participating in the industry meetings for the election of nominees to the committee should be limited to one vote on behalf of himself, his agents, subsidiaries, affiliates, or representatives in designating nominees. Voting on any other basis would not provide for equitable representation, because it would give the producers with interests in more than one district a greater voice in election of nominees than producers operating in only one district. The plan of one vote for each producer should be so construed that the person eligible to vote in a nomination meeting should be allowed to cast one vote for each position which is to be filled in the district in which he elects to vote. For example, at meetings for the election of nominees to the initial committee, each person voting as a producer in a given district would be allowed to cast one vote each for each of the three member nominees and one vote for each of the three alternate member nominees. Not more than one officer or employee of a producer or a handler should be eligible for nomination and selection as a committee member or alternate during a term of office, because this would tend to give a single organization unfair influence in committee business.

In order that there might be an administrative agency in existence at all times to administer the order, the Secretary should be authorized to select committee members and alternates without regard to nomination if, for any reason, nominations are not submitted to him in conformance with the procedure prescribed therein. Such selection should, of course, be on the basis of the representation provided in the order so that the composition of the committee would, at all times, continue as prescribed therein.

In the event the committee should neglect or fail to call nomination meetings by July 1, the Secretary should have the authority to select the above procedure in selecting committee members or to issue a call for nomination meetings on his own motion after reasonable notice to the cucumber producers in the production area.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such capacity. This requirement will be neces-

sary so that the Secretary will know whether or not the position has been filled. Such acceptance should be filed within 10 days after the notification of appointment so that the composition of the committee would not be delayed unduly. In order that a well intentioned selectee would not be disqualified by his failure to accept his appointment promptly, the date of notification should be the first date on which the selectee receives the notification of appointment in person. Initial acceptance of appointment by telegram would be satisfactory, provided it is followed within a short time by written acceptance.

It would also be desirable and necessary that the Secretary be authorized to fill a committee vacancy without regard to nominations if the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs. The Secretary should have recourse to such means of filling vacancies in order to maintain continuity of administrative agency operations and to insure that all portions of the production area are adequately represented in the conduct of committee business. Incumbent alternate members should be considered by the Secretary as among those qualified for vacant positions on the committee.

Nomination meetings might be called in the district which is represented by the vacated position on the committee so that producers might elect nominees for the Secretary's consideration. The vacant position should be occupied by the respective alternate member from the district involved until filled by a properly qualified selectee.

Each alternate should be authorized to act in the place and stead of the member for whom he is an alternate during such member's temporary absence. Continuity of operation of the marketing agreement and order is best assured by such authorization. An alternate should also be authorized to act in a member's absence when such absence is due to death, removal, resignation, or disqualification of the member. Alternates acting in the place and stead of members should continue to act in such capacity until a successor for the member has been selected and has qualified.

A quorum of the committee should consist of at least eight members. This would not only insure that one more than a majority of the members would be in attendance at committee meetings, but also would require that representation be present from at least three of the four districts. Committee decisions should, therefore, reflect an accurate and representative cross section of industry thought and attitudes.

Not less than eight members of the committee should be required to concur in any committee action in order for it to pass. Such a voting requirement, constituting a minimum of two-thirds of the membership, is deemed reasonable and adequate. This requirement would also assure that producer representation at committee meetings would, at no time, be less than one-half of those present.

The committee should be authorized to vote by telephone, telegram, or other

means of communication when a matter to be considered is so routine that it would be unreasonable to call an assembled meeting or when rapid action is necessary because of an emergency. Any vote cast at other than an assembled meeting should be confirmed promptly in writing to provide a written record of the votes so cast. In case of an assembled meeting, however, all votes should be cast in person.

Committee members and alternates should be reimbursed for necessary and reasonable expenses incurred in the performance of service to the committee. Expenses for services by committee members should be allowed only for those specifically requested or directed by the committee. Such expenses might include travel, hotel accommodations, and meals. Reimbursement for reasonably necessary expenses is required to offset actual out-of-pocket expenses incurred in performing duties in connection with the marketing agreement and order.

In determining a reasonable basis for reimbursement of members and alternates for necessary expenses incurred on committee business, the committee should consider schedules of expense allowances established by the State of Florida or the Federal Government, or by other administrative committees as a guide. However, it is not believed that the following of any such schedule should be made mandatory. Instead, the appropriateness of such expenditures should be judged on the basis of whether they are reasonable and necessary in the light of the attendant circumstances. Reimbursement should be made to cover the "out-of-pocket" costs only and, in no event, should it be in lieu of salary or compensation.

The committee should be given those specific powers which are set forth in section 8c (7) (C) of the act, because such powers are authorized to be granted by the enabling statutory authority and they are necessary so that an agency of the character set forth in the marketing agreement and order could function.

The committee's duties, as set forth in the marketing agreement and order, will be necessary for the discharge of its responsibilities. Such duties are generally similar to those specified for administrative agencies under other programs of this character. It is intended that any activities undertaken by members or alternates of the committee will be necessary for the committee to carry out its responsibilities as prescribed in the order. It should be recognized that these specified duties are not necessarily all inclusive, in that it may develop that there are other duties which are incidental to, and not inconsistent with, the terms and conditions of the order which the committee might need to perform.

(c) The committee should be authorized to incur such expenses as the Secretary should find are reasonable and likely to be incurred by it during each fiscal period for the maintenance and functioning of such committee and for such other purposes as the Secretary might, pursuant to the provisions of the order, determine to be appropriate. The

expenses so incurred should be shared by handlers on the basis of the ratio of each handler's total shipments to the total shipments by all handlers during specified fiscal periods. The basis for determination of the ratio of shipments by individual handlers should be based upon the total shipments by first handlers thereof. The above formula is believed to be the fairest method of obtaining operating revenues on an equitable basis from handlers.

The committee should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of income and expenditures necessary for the administration of the order for such period. Each such budget should be presented to the Secretary with an analysis of its components and an explanation thereof in the form of a report on such budget. It would be desirable that the committee recommend a rate of assessment to the Secretary which should be designed to bring in during each fiscal period sufficient income to cover expenses incurred by the committee. There should not be any increase made in the budget without prior recommendation of the committee and approval of the Secretary.

The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of such expenses by administrative agencies, such as the proposed Florida Cucumber Committee, and the statute also requires that each marketing order issued pursuant to the act contain provisions requiring handlers to pay their pro rata shares of the necessary expenses. Moreover, in order to assure continuance of the committee, the payment of assessments by handlers should be permitted to be required irrespective of whether particular provisions of the marketing agreement and order are suspended or become inoperative.

Each handler should pay the committee, upon demand, his pro rata share of such reasonable expenses which the Secretary finds will be incurred necessarily by the committee during each fiscal period. Such pro rata share of expenses should be equal to the ratio between the total quantity of cucumbers handled by him as the first handler thereof during a specified fiscal period and the total quantity of cucumbers so handled by all handlers during the same fiscal period. It will be necessary that responsibility for the payment of the assessment on each lot of cucumbers be fixed and it will be logical to impose such liability on the first handler of such cucumbers. In most instances, the first handler and the applicant for inspection are the same person. However, in the event the first handler fails to apply for, and obtain, inspection, this does not in any way cancel his obligation with respect to the payment of assessments. Except in the case of movements to registered handlers and to designated auction markets, first handling should apply to cucumbers when they have been subjected to grading or

preparation for market. Assessment rates should be recommended by the committee and applied by the Secretary to a specific unit of shipment. For example, assessment rates might apply to carlot shipments or they might be applied on a bushel basis, or by any other unit of shipment commonly used in marketing cucumbers grown in the production area. However, such assessments for a fiscal period should be applied on a uniform rate basis.

It was argued at the hearing and in the brief filed on behalf of the opponents that administrative assessments should not only be imposed on all cucumbers which would be subject to regulation under the proposed order but also on all other cucumbers which move into and out of the production area, such as those cucumbers which are imported into Florida from foreign countries and then move from Florida into other States. Cucumbers which fall into the latter category would, as has been set forth heretofore, not be included under the regulation of the proposed order and it would not be appropriate to impose assessments against them for operational expenses of the program. It is necessary that only cucumbers which would be regulated under the program be assessed to cover the costs of such program.

The committee should be authorized at any time during or subsequent to a given fiscal period, to recommend the approval of an amended budget and the fixing of an increased rate of assessment to balance necessary committee expenses and revenues. Upon the basis of such recommendations, or other available information, the Secretary should be authorized to approve amended budgets and, if he should find that the then current rate of assessment is insufficient to cover committee administration of the order, he should be authorized to increase the rate of assessment. The order should also authorize the application of such increased rate of assessment to all cucumbers previously handled by first handlers during the specified fiscal period so as to avoid inequities among handlers.

Should grade, size, or other regulations be temporarily suspended, the committee should have the authority to recommend the continuation of the collection of assessments from handlers. Once established, the committee should not be required to suspend its manager and other personnel or otherwise to interrupt its office operations merely because of a suspension of regulations which usually are associated with revenue producing assessments. Subsequent reestablishment of committee operations at a later date might prove more costly to the cucumber industry than continued operations provided by uninterrupted revenue.

Funds received by the committee pursuant to the levying of assessments should be used solely for the purpose of administration of the order, including appropriate research and development projects. The committee should be required to maintain books and records clearly reflecting the true up-to-date operations of its affairs, so that its ad-

ministration might be subject to inspection at any time by appropriate parties during regular hours of business.

Each member and each alternate, as well as employees, agents, and other persons working for or on behalf of the committee should be required to account for all receipts and disbursements, funds, property, or records for which they are responsible and the Secretary should have the authority, at any time, to ask for such accounting. The committee might wish to require the bonding of certain of its members or employees entrusted with the custody of funds or property and this should be permitted.

Whenever any person should cease to be a member or alternate of the committee, he should be required to account for all receipts, disbursements, funds, property, books, records, and other committee assets for which he is responsible. Such persons should also be required to execute assignments or such other instruments as may be appropriate to vest in their successor or any agency or person designated by the Secretary, the right to all such property and all claims vested in such person.

If the committee should recommend that the operations of the marketing agreement and order should be suspended, or if no regulation should be in effect for a part or all of a marketing season, the committee should be authorized to recommend, as a practical measure, that one or more of its members, or any other person, should be designated by the Secretary to act as a trustee or trustees during such period. This would provide a practical method whereby the committee's business affairs could be taken care of during periods of relative inactivity with a minimum of difficulty and expense. If the circumstances would warrant the designation of trustees, the committee and its personnel would continue to operate, possibly in a curtailed fashion, as usual during periods of suspension or relative inactivity.

The committee should provide periodic reports on its fiscal operations. It is expected that audit reports would be requested by the Secretary at appropriate times, such as at the end of each marketing season, or at such other times as might be necessary to maintain appropriate supervision and control of the committee's affairs. Also financial statements which reflect the current fiscal position of the committee should be furnished members and alternates and the Secretary at the close of each month. Audit reports and monthly financial statements should be supplied on request to persons such as producers and handlers, having a valid interest in the contents of such reports. In no case should data of a nature which could prove detrimental to the interests of an individual handler or producer be disclosed in copies of fiscal reports released.

Except as indicated below, handlers should be entitled to a proportionate refund of the excess assessments collected which should remain at the end of a fiscal period, or at the end of such other period as might be deemed appropriate by reason of suspension or termination.

Refunds should be credited to respective contributory handlers against the operations of the following fiscal period, unless payment should be demanded, in which event proportionate refunds should be paid.

If and when the committee should be required to liquidate its affairs upon termination of a marketing agreement and order authorizing such agency, considerable expense would be involved in the liquidation process. The affairs of the committee which are to be liquidated would usually result from a number of years' operations. It would be appropriate, therefore, for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal period, which are in excess of those necessary for payment of expenditures during such period, should be carried over into subsequent fiscal periods as a reserve for possible liquidation. Such reserve should be maintained for the purpose of helping to cover the expenses of final liquidation in the event of the termination of the order.

It is generally considered to be good business practice to provide for unforeseen contingencies. For example, it is possible that a severe freeze or freezes might result in a total or partial crop failure during a fiscal period. Also, the anticipated crop for any season might conceivably be reduced by such other factors as frost, high winds not amounting to a hurricane, and drought. The net effect of such a crop failure would be to reduce greatly or stop shipments, and could cause the discontinuance of regulation and the collection of assessments. In order to continue and maintain the nucleus of a committee organization and to assure the performance of a minimum of basic services, the committee should have authority to secure needed extra funds to cover the expenses of operation during such a fiscal period. Such funds might reasonably be drawn from the same reserve accrued for purposes of liquidation.

The above reserve might also properly serve another purpose. At the beginning of each fiscal period, there will be a need for operating monies at a time when there will usually be little, if any, revenue from assessments. It is customary and sensible budgetary practice, and the committee should be so authorized, to borrow operating funds from the above reserve until such time as assessment collections provide adequate revenue to meet current expenses. It is contemplated that any such reserve having a threefold use; namely, (i) liquidation, (ii) crop failure advance, and (iii) fiscal year expense advance, will be built up over a period of years (possibly five years) to equalize the burden among handlers. It was testified that the reserve which would be accrued from excess assessments, should be for an amount roughly equivalent to the average budget for one fiscal period. In the event funds should be borrowed from the reserve (except liquidation) such funds would need to be returned to the reserve as soon as practicable, in order that it might be maintained at an ade-

quate amount to meet the specified purposes as the need should arise.

Any funds remaining after liquidation, including any balance which might remain in the reserve fund, has been effected should be refunded to handlers on a pro rata basis. In some cases, however, individual handler's accounts will be of such small amounts as to make impracticable the return thereof. Funds of such insignificant nature should be permitted for use by the committee for purposes of liquidation after such other uses as the Secretary might consider to be the most appropriate in the circumstances.

(d) The establishment or provision for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of cucumbers was authorized by amendments to the act in Public Law 690, known as the Agricultural Act of 1954, enacted by the 83d Congress. Such authorization should be included in the marketing agreement and order.

Through the medium of research investigation, the committee might be able to evaluate in detail the grade and size composition of the cucumber crop in each of the various producing sections of the proposed production area. More complete data in this regard would enable the committee and the Secretary to determine with a greater degree of accuracy the effect of specific regulations on the market.

Projects designed to evaluate preferences among markets and localities in terms of grades, sizes, qualities, maturities, packs, containers, and other factors could be of considerable value in determining what regulations in those regards should be established for such markets and localities. The aid of marketing research and development projects might assist in a determination as to the effect and value of private and industry promotion of Florida cucumbers.

Research into market development, transportation, handling methods, containers, and rates of planting are examples of aspects which the committee might at some time, consider worthy of investigation.

As the cucumber industry and the committee become more aware of the value of and need for marketing research and development, other projects will undoubtedly be initiated, the need for which will not have been foreseen early in committee operations. Therefore, the committee should have the authority to recommend and the Secretary should have the right to approve the establishment of such projects which are in the best interest of cucumber marketing and which would assist, improve, and promote the marketing, distribution, and consumption of Florida cucumbers. After approval, the committee should be empowered to engage in or contract for such projects, to spend funds for that purpose, and to consult and cooperate with other agencies with regard to their establishment. All such projects should receive the prior approval of the Secretary.

(e) The declared policy of the act is to establish and maintain such orderly marketing conditions for cucumbers, among other commodities, as will tend to establish parity prices for them. The regulation of the handling of cucumbers by grade, size, quality, or maturity as authorized in the proposed marketing agreement and order should provide a means of carrying out such policy and is one of the ways authorized by the act (in section 8c (6)) for achieving that objective.

The procedures and methods which are outlined in the order for the development and institution of marketing policies relating to grade, size, quality, or maturity regulations should provide a practical basis for the committee to obtain appropriate and adequate information relating to cucumber marketing problems. A marketing policy would be essential each season to provide an overall plan or policy for the committee and the industry to follow with respect to the marketing of cucumbers. Also members of the industry, including both growers and handlers, should be provided with the information regarding the policies and regulations which might be recommended by the committee. The factors set forth in the order which the committee should take into consideration in developing its marketing policies are the ones commonly and usually taken into account by growers and handlers in their day to day evaluation of the market outlook with respect to cucumbers. They are adequate and proper for the intended purposes.

In order that the Secretary might carry out effectively his responsibilities in connection with the order, the committee should prepare and submit to the Secretary a report on each proposed marketing policy, or amendments thereof, relating to the marketing of cucumbers during each season.

The initial marketing policy offered each season by the committee should be prepared and submitted to the Secretary prior to, or simultaneously with, its initial recommendations for regulations. This would give all interested parties the maximum notice of probable regulations. Reports on marketing policy and regulations recommended should be submitted to the Secretary and presented to the industry by the committee.

The committee, which would have responsibility for recommending grade, size, and quality regulations, as well as modifications, suspensions, amendments, or terminations, should be authorized to consider and recommend any or all methods of regulations which are authorized by the order for the Secretary to issue thereunder. Evidence shows that authority should be established in the order to issue regulations with respect to grade, size, quality, maturity, variety, or packs during any period.

The limitation of the handling of poorer grades, off qualities, and less desirable sizes and maturities of cucumbers grown in the production area should tend to increase the prices of more desirable grades, qualities, sizes, and maturities and to promote more orderly marketing and increase the returns to producers of such cucumbers. The standards for

cucumbers issued by the United States Department of Agriculture would provide a common and acceptable means of determining grades, sizes, qualities and maturities of cucumbers grown in the production area. Such standards are used throughout the production area, and both producers and handlers, as well as buyers, are generally acquainted with such standards and frequently use them in their market transactions. Authority should also be provided for limiting the grade and size of cucumbers which may be placed in any given pack or container. The poorer grades and qualities include not only the unclassified cucumbers set forth in the Federal standards for cucumbers, but also the commonly referred to "culls" as well as other cucumbers which show defects as set forth and described in such standards, and in any modifications or amendments thereto which may be considered desirable by the Secretary. The limitation of the handling by prohibiting movement of poorer grades, off qualities, and less desirable sizes of cucumbers would help to improve orderly marketing conditions for such cucumbers by enhancing the long run demand for and competitive position of cucumbers grown in the production area.

The orderly marketing of cucumbers grown in the production area, with the objective of increasing returns to producers of such cucumbers, would be promoted by authorizing the regulation of handling of particular grades, sizes, qualities, or packs of cucumbers, differently for different varieties, differently for different stages of maturity, differently for different portions of the production area, differently for different containers, differently for different purposes to which modification or suspension of regulation may be applied, or differently for any combination of these factors, during any period. Demand for different varieties of cucumbers establishes price preferences for different grades or sizes, or both, of such varieties.

Cucumbers are marketed or merchandised in a number of ways. The combination of various factors such as grades, sizes, maturities, containers, and others determine market preferences expressed in price differentials. Some of these market factors which contribute to resultant price differentials, such as maturity, shape, color, and, to some extent, size are a part of the definitions and the delineation of the various grades set forth in the United States Standards for Cucumbers. The committee usually may recommend regulation in terms of the grades set forth in the standards in which case separate consideration of the various grade factors should be unnecessary. However, the committee should have authority to recommend, and the Secretary to issue, regulations in terms of any or all of the factors set forth in the standards. For example, maturity is not considered as an important market factor in cucumber merchandising as is the case with many other vegetables. However, many "jumbos," which are large overgrown cucumbers, are sold and have the same

depressing price effect as poor quality cucumbers. The order should, therefore, provide authority for different regulation on a maturity basis.

Size requirements are also set forth in the cucumber grade standards. Each of the cucumber grades, with the exception of the U. S. No. 1 Small grade, provide for maximum diameters and minimum lengths of cucumbers. The U. S. No. 1 Small grade requires a minimum diameter of 1½ inches and a maximum diameter of 2 inches. The committee, however, should have authority to specify any range of minimum and maximum diameters and/or lengths in its recommendations for regulation. The committee should have authority to recommend, and the Secretary to issue, different size requirements for different packs. For example, when U. S. No. 1 grade cucumbers are shipped, the size requirements of this grade set forth a maximum diameter of 2¾ inches and a minimum length of 6 inches. The committee should be authorized to recommend the issuance of a regulation which might require a U. S. No. 1 minimum grade applicable to bushel tubs and U. S. No. 1 with more restrictive size requirements on premium packs, such as cartons of 24's. Such permissive authority would allow flexibility of operations and would permit of size uniformity where desirable to protect certain premium packs while not severely restricting other packs.

At the present time, variety is not a particularly important part of the marketing picture for Florida cucumbers. The Marketeer variety is currently the most popular slicing variety of cucumbers grown in Florida. However, with the exception of the Kirby variety, there is little if any market distinction made on a varietal basis. The Kirby variety of cucumber, produced and marketed mainly for pickling, does not have characteristics which warrant its sale on the table stock market. New varieties are being constantly tested and developed and, if in the future, the characteristics bred into certain of these new varieties should be so distinctive as to make them obviously different from cucumbers now being marketed, the committee should have authority to regulate in terms of these distinctions.

Unusual weather conditions might arise during a crop year in one portion of the production area as compared with other portions of such area. This possibility is particularly true with respect to such things as hail, wind, sand damage, violent rain storms, cold weather and freezes. Hazards of these natures would obviously be beyond the control or reasonable expectation of the cucumber growers in such localities. To provide equity among producers and handlers insofar as any regulation under the order are concerned, authority should be provided for the committee to consider such differences, to make appropriate recommendations to the Secretary, and for the Secretary to issue different regulations to accommodate any such differences in the crop arising out of actions beyond human control. It is contemplated, however, that any such regulation

for the portion of the production area in those circumstances will still require that the cucumbers shipped will be the best quality available. Other than unforeseen weather hazards, no reasons were advanced by witnesses testifying at the hearing which would justify different regulations for different portions of the production area. In the event weather hazards jeopardize the position of only a few growers, not a large area, such growers might seek equity through the provisions relating to exemption procedures.

It has been a common practice in the production area for some years to prepare specific packs of cucumbers for market, as indicated in the definition of "pack." Place packing and jumble packing are both common with respect to cucumber marketing. A common place pack is the so-called carton in which usually a specified number of cucumbers are hand packed in the carton. Some packs are prepared with a combination of jumble packing and place packing. Frequently bushel tubs are filled by dumping cucumbers loosely into the container, then the pack is faced with cucumbers of a uniform size that are hand placed prior to putting a cover on the container. Some packers frequently top the package with good quality cucumbers to deceive buyers by disguising the contents of the package which might consist largely of poorer quality than appears, at a glance to be the case. Some of the low price packs are merely jumble packs in which there is no placing of individual cucumbers within the container. It is presumed that the establishment and definition of such packs which can be set forth in rules and regulations will prescribe the grades and ranges of sizes permitted to be handled in conjunction with specified containers. Certain combinations of grades, sizes, and containers, which factors constitute packs, should be kept out of specified market channels, at the discretion of the committee with the approval of the Secretary, because such packs contribute to depressing of cucumber prices. For example, the committee should have authority to protect premium packs, such as the carton packs, by preventing the packing of certain undesirable grades, sizes, and maturities in cartons. The carton packs of cucumbers usually contain superior merchandise and many shippers have established a good reputation for them. The adulteration of carton and other premium packs with low grade produce would tend to damage the reputation of, and contribute to demoralized prices for, such packs. The order should authorize different regulations for different packs so that this part of the marketing program may help to assist the industry in advancing present sound merchandising approaches.

The order should permit regulation differently for different types of containers. Such regulation is authorized by virtue of an amendment to the act in Public Law 690, known as the Agricultural Act of 1954, enacted by the 83rd Congress. Numerous types and sizes of containers are in current use in the han-

dling of cucumbers within the production area. Types of shipments may range from the bulk load of loose cucumbers to the premium-pack carton. Should the use of certain of the containers, when moved into commercial channels, be deemed by the committee with the approval of the Secretary as contributing to lower prices for Florida cucumbers, the Secretary should be empowered to fix the size, weight, capacity, dimensions, or pack of the container or containers which may be used in the packaging, transportation, sale, shipment, or other handling of such cucumbers. For similar reasons, the committee should be permitted to recommend and the Secretary to issue different regulations for different containers. For example, the committee might desire to prohibit the sale or shipment of cucumbers in burlap field-sacks to markets outside of the production area.

Methods of misrepresenting net weight or the grade and size of contents of containers are misleading merchandising practices which have tended to confuse buyers and disrupt orderly marketing of cucumbers grown in the production area. Variation in the size of bulge on bushel tubs, the use of second-hand or used containers, and other such practices tend to deceive buyers, which would ultimately and adversely affect growers returns. Certain types of containers are unsuited for the handling of premium packs because such containers tend to depress the prices of established premium packs. Authority for container regulation should also be provided to permit standardization of containers where deemed feasible and in the best interests of the cucumber industry. At the same time, container regulation should not stifle the development of or research in new containers. The authority to fix the size, weight, capacity, dimensions, or pack of containers should allow the committee and the Secretary, when necessary and justified, to minimize or eliminate deceptive practices which a few members of the cucumber industry might be inclined to follow. Therefore, the provisions relating to container regulation should be included in the order as set forth.

No evidence was introduced to substantiate the proposal relating to different regulation for different markets. Therefore, no further consideration can be given to it in this proceeding.

Cucumber marketing conditions change rapidly and constantly. Adverse weather might reduce the quality or size of the crop or otherwise might curtail supply. Also, the quality or yield might change as harvest progresses from season to season or moves into new producing sections. The marketing agreement and order should authorize different regulations during any period so that the committee and the Secretary might take account of different supply and demand conditions as they should arise and become apparent.

(f) The committee should be authorized to recommend, and the Secretary to establish, such minimum standards of quality and maturity, and such grading and inspection requirements, during any

and all periods when cucumber prices should be above parity as will be in the public interest. Some cucumbers are of such low quality that they do not give consumer satisfaction at any time because of the large amount of waste and the time consumed in their preparation. Although the flavor of the edible portion of misshapen culls or "cootertails" might be satisfactory, consumers do not receive proper value for their expenditures for such low quality. Even when prices are above parity, it would not be in the public interest, of the producers, handlers, or of consumers to permit shipments of such poor quality. A shipment of "cootertails," "jumbos," or other culls also tends to disrupt general market conditions for the commodity and the discounted prices received for such underdeveloped or over-grown cucumbers adversely affect growers returns. The order should authorize the establishment of minimum standards of quality and maturity as would be in the public interest. It would also be necessary that such authority include grading and inspection requirements, as well as pack specifications, for the several commercially recognized grades of equal or better quality or size than the minimum standards of cucumbers which may be handled.

The proposed order should provide authority which would permit the issuance of pack specification regulations based upon the committee's approval and recommendation. This would place limitations on minimum grades and sizes which might be packed in given containers. For example, any lot which a handler sells should be of the quality and size which the handler represents it to be and such quality and size should, as an aid to enforcement and to insure that the buyer will know what he is getting, be plainly marked on the container of such lot. This type of a regulation, however, should not prevent the use of the commonly used "combination" grade. Regulation of this type in conjunction with inspection and the United States Standards for Cucumbers should, to a large extent, eliminate the practice of misrepresenting quality, such as the harmful practice of selling choice cucumbers as fancies on the basis of a false label.

If a cull regulation should be in effect (i. e., prohibiting the shipment of less than U. S. No. 2 grade cucumbers) pursuant to authority contained in the order, a pack specification regulation would permit the shipment of U. S. No. 2's, U. S. No. 1's, or U. S. Fancies. It should, however, prohibit the mixing of lower grades in a container or in a given pack in excess of the tolerance for the grade marked on the container.

Another example which the committee should have authority to consider is the combination of grade and size in pack specifications. If a pack specification regulation were issued which prohibited the packing of any cucumbers of less than U. S. No. 1 quality in cartons, either U. S. No. 1 or U. S. Fancy cucumbers could be packed in such cartons. The committee should have authority to recommend that a restriction could be placed on minimum and maximum sizes of cucumbers which could be packed in

U. S. Fancy cartons to provide for uniformity of size as well as uniformity of grades of cucumbers packed in the container. The examples merely indicate the type of action the committee should have authority to recommend and the Secretary to issue pursuant to the marketing agreement and order. Pack specifications are, according to the hearing record one of the pressing needs of the cucumber industry in Florida. For many years cucumber packers and shippers have been using terms to indicate grade or quality which do not have a uniform or constant meaning with the result that the trade generally (growers, shippers, or buyers, receivers, and retailers) has little confidence in these terms. The cucumber trade makes every day use of such terms as "plains," "choice," "fancy" and "extra fancy" in order to indicate grade. Only the person who thoroughly examines the contents of the container stamped with one of these terms can, with certainty and with confidence, know the quality of the pack indicated by the stamp. It is a common practice throughout most of the production area for packers to stamp covers of containers, whether a basket, a carton, or a wire bound crate with a term supposed to indicate grade. However, the common trade terms have little meaning, and, in fact, contribute to wide ranges in price for a given trade grade designation as well as reduced returns to growers, because of the manner in which they are used. It is accepted practice to label the best quality as extra fancy or fancy, mid-quality as choice, and the poorest quality, plains. However, the quality available at a given packing house from day to day will vary from grower to grower, depending on weather conditions or whether the cucumbers are from the first or the tenth picking. If the price should be low, the fancies labelled as such by packers will, in fact, be top quality. Should prices be at high levels, the so-called "extra fancy" and "fancy" packs will contain some "choice" or poorer quality cucumbers, the proportion depending on the packer involved. Frequently the freedom exercised in labeling containers is used to undercut a competitor's price to the detriment of growers' returns. Top quality cucumbers placed in one market and graded and stamped as fancies have been undercut in price by other cucumbers of lower quality but also labelled as fancy cucumbers. Buyers are able to "beat down" the price of the higher quality produce because they can always point to other produce in the same market represented to be of similar quality but at a lower price. In instances of this kind, the lack of grade uniformity and standardization has been responsible for reduced growers returns, penalizing the grower and the shipper who prepared the high quality pack. To discourage and eliminate the aforementioned harmful practices now so prevalent in the cucumber industry, the committee should have authority to recommend and the Secretary should have authority to issue pack specification regulations on the basis of the committee's recommendation or other available information.

Most shipments of Florida cucumbers are made in car lots or truck lots. Although some small shipments are made, they constitute only a minor percentage of total production. Small shipments, such as individual household purchases, convenience purchases by friends or tourists and similar "nuisance" purchases would present real operating problems if inspection were required on each. Similarly, if each such sale or shipment were required to meet grade and size regulation or to bear assessments, the nuisance factor might outweigh the advantage of these controls on small transactions. On the other hand, the committee should have the authority to require that any such shipments meet grade and size requirements while waiving other requirements such as inspection and assessment. The committee should have authority flexible enough to meet local conditions, including authority to permit changing the minimum quantity exempt from various rules and regulations for different parts of the production area and from season to season.

(g) The Secretary should be authorized, upon the basis of recommendations and information submitted by the committee, or other available information, to modify, suspend, or terminate grade, size, or maturity regulations with respect to the handling of cucumbers for purposes other than disposition in normal domestic fresh markets. The committee should be well qualified, because of the experience and knowledge of its individual members, to recommend such modifications, suspensions, or terminations as would be in the best interests of the Florida cucumber industry and which would tend to effectuate the declared policy of the act. Cucumbers moving to or sold in certain outlets, such as those specified in proposed § 1015.54 of the marketing agreement and order, are usually handled in a different manner, or such outlets usually accept different grades, sizes, qualities, maturities, packs, containers, for which different prices are returned, or combinations of such considerations may apply. Ordinarily cucumbers sold or shipped to such outlets would not be competitive with tablestock cucumbers. The sale of cucumbers to these outlets would, in most instances, provide returns which would tend to supplement farm income realized from the sale of tablestock cucumbers rather than depressing tablestock cucumber prices. The order should provide authority for the committee and the Secretary to give appropriate consideration to the handling of cucumbers for such purpose differently from the market for the bulk of tablestock cucumbers so that this program might offer opportunity to improve orderly marketing conditions for cucumbers thereby promoting the tendency to increase total returns to cucumber growers in the production area.

Some export markets may prefer certain grades, sizes, and packs of cucumbers which normally are discounted in some domestic markets. Canada is the principal foreign market for Florida cucumbers. The order should provide

sufficient flexibility to permit the committee and the industry to cope with competitive producing areas in supplying foreign markets while, at the same time, maintaining relatively higher standards in its domestic shipments. The order should provide that modification, suspension, or termination of regulations may be applied to movement to export outlets so that this demand could be met and the sale of cucumbers grown in the production area will continue in such markets.

The order should provide that special consideration may be given to the handling of cucumbers for relief or for charitable purposes. Such shipments are intended for special outlets and usually the shipments are by way of donation or due to some special consideration between the shippers and the receivers.

The committee and the Secretary should have authority to give special consideration, in the form of relaxing grade and size regulation or no regulation (but providing for the reporting of handling), to cucumbers which move to pickling or relish plants. It is desirable to permit the committee authority to assure that such cucumbers do, in fact, reach the outlet for which intended. In other words, to assure that they are not sold or shipped for use in fresh form in violation of the order. It was generally agreed at the hearing that shipments of cucumbers for the purpose of having such cucumbers pickled should be exempted from all regulation under the order except, as a safeguard measure, a requirement that such shipments for conversion into pickles or relishes be reported to the committee for the sole purpose of assuring the committee and the cucumber industry that such shipments are, in fact, moved to the outlet for which intended. No other regulation or restriction is intended on cucumbers for pickling. It is believed that such an exemption also would be in accordance with the intent of the statutory prohibition against the regulation of a vegetable such as cucumbers intended for canning purposes.

Shipments of hydroponically grown cucumbers and shipments of cucumbers for research purposes should also be permitted to be handled pursuant to the provisions of the order which provide for modification, suspension, or termination of regulations applicable to usual table stock movement. Such cucumbers usually supply special types of outlets which are not competitive with table stock cucumbers.

The committee should be empowered to provide special treatment, through modification, suspension, or termination of regulation, applicable to shipments for other purposes or products which later may be specified by the committee with the approval of the Secretary.

The requirement that the Secretary should notify the committee of any regulations or of any modifications, suspensions, or terminations of regulations is appropriate and necessary to enable the committee to be informed of such actions and for proper and efficient administra-

tion of the marketing agreement and order.

The authority for modifying, suspending, or terminating grade, size, quality, assessment, or inspection regulations should be accompanied by the additional administrative authority for the committee to recommend, and the Secretary to prescribe, adequate safeguards to prevent shipments for such purposes from entering market channels contrary to the provisions of such special regulations. Such safeguards should be recommended by the committee and they should be administered by the committee. The authority for establishment of safeguards should include such limitations or appropriate qualifications on shipments as might be necessary and incidental to the proper and efficient administration of the order. Such safeguards, among others, might include inspection so that the committee might have an accurate record of the grade, size, and quality of cucumbers shipped to special outlets, applications to make such special shipments, requirements for the payment of assessments in connection with such shipments, reports by handlers on the number of such shipments and the amounts of cucumbers shipped, and assurances by purchasers that the cucumbers would be used for the purpose designated.

In order to maintain appropriate identification of shipments of cucumbers to special outlets, the safeguards authorized herein should provide for the issuance of certificates of privilege to handlers of such cucumbers and, in addition, require that such handlers should obtain such certificates on all shipments by them to such special outlets. Certificates of Privilege might be issued by the committee as an indication of the authority for the handlers to make such shipments and as a means of identifying specific shipments. Such Certificates of Privilege should be issued in accordance with rules and regulations established by the Secretary on the basis of committee recommendations, or other available information, so that the issuance of such certificates might be handled in an orderly and efficient manner which can be made known to all handlers. The committee should be authorized by the order to deny or rescind Certificates of Privilege when such action would be necessary to prevent abuse of the privileges conferred thereby. The committee should be authorized to exercise the authority necessary and incidental to the proper administration of the order, which should include the authority to rescind or deny certificates upon evidence satisfactory to it that a handler to whom a Certificate of Privilege has been issued has handled cucumbers contrary to the provisions of a certificate previously issued to him. If the committee should rescind or deny a Certificate of Privilege to any handler, such action should be in terms of a specified period of time. Handlers affected by the denial of a certificate or the rescinding of such a certificate should have the right of appeal to the committee for a reconsideration. They should, of course, also have the right to request the Secretary to review such ac-

tion and such right is hereby recognized and confirmed.

The Secretary should have the right to modify, change, alter, or rescind any safeguards prescribed or any Certificates of Privilege issued by the committee in order that the Secretary might retain all rights necessary to carry out the declared policy of the act. The Secretary should give prompt notice to the committee of any action taken by him in connection therewith and the committee should currently notify all persons affected by the indicated action.

The committee should maintain records relevant to safeguards and to Certificates of Privilege and should submit reports thereon to the Secretary, when requested, in order to supply pertinent information requisite for him to discharge his duties under the act and the order.

(h) Inspection of cucumbers grown in the production area by the Federal-State Inspection Service would be desirable for the purpose of determining officially the grade, size, quality, and maturity of such cucumbers. Federal-State Inspection Service has operated in the State of Florida for a number of years. The cucumber growers and handlers throughout the production area are generally acquainted with the service and with the inspection which it offers on shipments of cucumbers. Federal-State inspection is available throughout the entire production area and reasonably prompt inspection can be given at all points within the production area at a reasonable time prior to the anticipated shipment of the cucumbers to be inspected.

Provision is made in the proposed order for inspection by the Federal-State Inspection Service, or such other inspection service as the Secretary might approve, of the handling of cucumbers grown in the production area during any period in which handling of cucumbers should be regulated under the program. Such inspection requirements should apply to all cucumbers handled under regulations issued under the order, except when any such handling should be relieved from inspection requirements pursuant to § 1015.53 or § 1015.54 of the order. Provision for inspection of handling subject to regulation would establish a means for providing the handler, the buyer, the committee, the Secretary, and other interested parties with opportunities for determining whether such handling of cucumbers complies with the requirements of any particular grade, size, quality, maturity, or pack regulation which might be in effect under the proposed order. Effective regulation of the handling of cucumbers grown in the production area would require that the grade, size, quality, maturity, or pack of each sale or shipment of such cucumbers would be established authoritatively so that the administration of the program would be efficient and effective. The provision for inspection and the certificates which are issued pursuant to inspection would offer an appropriate and practical means of establishing and identifying the grade, size, quality, maturity, and pack of cucumbers handled

pursuant to the terms and conditions of the proposed order.

Copies of inspection certificates issued pursuant to the requirements of the order should be supplied to the committee promptly, so that it can discharge properly its administrative responsibilities under the program.

Provision should be made in the order for authority to inspect cucumbers, not only by personnel of the Federal-State Inspection Service, but also by personnel of such inspection service as the Secretary might designate, so that sufficient flexibility for successful operation would be provided through appropriate inspection if Federal-State inspection should not be available.

The requirement that no handler shall handle cucumbers unless each lot of cucumbers is inspected by an authorized inspection service approved under the marketing agreement and order would be reasonable and is necessary for the proper administration of the program. Such requirements should apply except to those cucumbers which might be relieved of inspection requirements pursuant to § 1015.53 or § 1015.54, or both.

Responsibility for obtaining inspection should fall primarily on the handler who first handles regulated cucumbers after they have been prepared for market because each lot of such cucumbers must be identified and certified with respect to grade, size, quality, and maturity. Each handler, regardless of whether the first or a subsequent handler, should be required to bear responsibility for determining that each of his shipments is inspected and certified. Identification and certification would be essential to proper administration of the order so that a determination could be made as to whether each shipment accords with the grade, size, quality, maturity, and pack regulations issued under the order. The handler who first handles cucumbers should be required to obtain inspection, but subsequent handlers should not be permitted to handle cucumbers unless a properly issued inspection certificate valid under the terms of the order applies to such shipments. If a handler should receive cucumbers which have not been inspected, he should be responsible for having them inspected before selling or transporting them. This requirement would be necessary so that the committee could obtain evidence in the form of inspection certificates which it needs to carry out its appropriate functions in determining if specific shipments have been inspected and if they otherwise meet requirements of the order and regulations issued pursuant to the order.

Some concern was expressed at the hearing and in the brief filed on behalf of the opponents to the effect that double inspection fees might be imposed in connection with each lot of cucumbers handled from the standpoint that, in addition to the regular inspection fee which would be charged by the official inspection service, an additional inspection fee on the same lot would be charged by the committee. Such a result is not contemplated or intended.

It is contemplated that the only inspection fee charged would be that by the official inspection service.

Whenever any shipment of cucumbers subject to the terms and provisions of the order have been inspected at the time of first shipment, but should later be dumped from the containers in which they were inspected, or if the lot on which the inspection certificate was issued should be broken up, the cucumbers might lose their identity insofar as the original inspection certificate for them was concerned. If any such lot of cucumbers should thereafter be repacked, the repacked cucumbers might have a new identity and the subsequent handling of the cucumbers should be in compliance with regulations issued under the order. This requirement would be necessary to effectuate the declared policy of the act. Therefore, the order should provide that the committee might require any person who handles Florida cucumbers after they have been repacked, resorted, or regraded to have such cucumbers reinspected and recertified before they are handled again. A reinspection and recertification of regraded, resorted, or repacked cucumbers might be necessary, in certain cases, so that the shipper thereof, as well as subsequent handlers, and the committee might determine if such shipments comply with the regulations then in effect and applicable thereto.

When pack specifications are in effect, the proposed order should include authority for requiring the marketing of containers of cucumbers as to the exact grade and size of the contents. It is common practice followed by handlers in the production area, and an accepted merchandising approach, to stamp cucumber containers with the grade of the contents of the package. When pack specifications and compulsory inspection are in effect, no unnecessary burden will be imposed on handlers to require that they, under the direction and supervision of the inspection service, mark each container with the applicable grade and/or size permitted to be shipped, much the same as most do at the present time using non-standard grade terms. This practice would also facilitate the administration and enforcement of the proposed order. It would be difficult to ascertain whether or not handlers are complying with pack specification regulation unless each container of cucumbers was properly identified as to its contents in terms of grades set forth in the U. S. Standards for Cucumbers. Unless the contents of a package of cucumbers might be required to be marked, stamped, or otherwise identified, the purpose of a pack specification regulation, which would include the building of trade confidence in the quality of Florida cucumbers with the attendant improvement of growers' prices, could not be properly accomplished.

The committee, with the approval of the Secretary, should be authorized to determine the length of time the inspection certificate is valid insofar as the requirements of the proposed order are concerned. Such requirement would be appropriate and necessary, especially

with respect to lot inspections which might be administratively desirable to accommodate handlers and truckers, because cucumbers are an extremely perishable commodity. It would not be practical and feasible for the committee to recognize inspection certificates which might have been issued several days previously when the cucumbers so inspected and certified would have since deteriorated and no longer would meet regulations in effect at the time of shipment and no longer would conform to the description on the inspection certificate.

(i) Certain hazards are encountered in the production of cucumbers grown in the production area which are beyond the control or reasonable expectation of the producers of such cucumbers. Because of these circumstances, and to provide equity among producers and handlers insofar as any regulations under the marketing agreement and order are concerned, the committee should be given authority to issue exemption certificates to producer applicants to permit them to sell their equitable proportion of all shipments from the production area. It is contemplated, however, that each exemption granted would require the approved applicant to sell his best quality cucumbers.

The committee, by reason of its knowledge of the conditions and problems applicable to the production of cucumbers in the production area and the information which it will have available in each case, should be well qualified to judge each applicant's case in a fair and equitable manner and to fix the quantity of exempted cucumbers which each applicant might sell.

The provisions contained in the notice of hearing relevant to the procedure to be followed in issuing exemption certificates, in investigating exemption claims, in appealing exemption claim determinations, and in recording and reporting exemption claim determinations to the Secretary would be necessary to the orderly and equitable operation of the marketing agreement and order and they should, therefore, be incorporated in the proposed order.

Provision should be made for the Secretary to modify, change, alter, or rescind any procedure established by the committee for granting of exemptions and of exemptions granted pursuant to such procedure. This would be desirable to guard against inequities in the granting of exemptions and to preclude the issuance of exemption certificates in unjustifiable cases.

(j) The committee should have authority, with the approval of the Secretary, to require that handlers submit to the committee such reports and information which are needed to perform such agency's functions under the order. It is difficult to anticipate every type of report, or kind of information, which the committee might need in administering the program, but it should have the authority, subject to the approval of the Secretary, to request reports and information if needed, of the type set forth in the proposed order. The standards which should be followed by the committee in requesting handlers to furnish re-

ports should be along the lines set forth in § 1015.70 of the proposed order, and such report should be those necessary for operation of the committee in carrying out the terms and conditions of the order. Reports furnished to the committee should be submitted in such manner and at such times as might be designated by the committee. Such reporting procedures should accord with the needs and requirements of the committee which are essential to administration of the proposed order, because changing conditions might warrant changes in the forms and methods of reporting to the committee. The Secretary should retain the right to approve, also to modify, change, or rescind any requests by the committee for information in order to protect handlers from unreasonable requests for reports.

Permissive use of the specified reporting requirements, and verifications of such reports and records by the committee would provide a means for the committee to check on compliance with, and operation of, the order.

Since it is possible that a question might arise with respect to compliance with the proposed order, handlers should maintain complete records on their handling and disposition of cucumbers for not less than two years subsequent to the termination of each fiscal period.

Any and all reports and records submitted for committee use by handlers should remain under appropriate protective classifications and be disclosed to none other than persons authorized by the Secretary.

(k) Except as provided in the marketing agreement and order, no handler should be permitted to handle cucumbers, the handling of which is prohibited pursuant to the order, and no handler should be permitted to handle cucumbers except in conformity with the order. If the program is to be effective, no handler should be permitted to evade its provisions since such action on the part of one handler, although possibly of small impact on the industry measured by the proportion of cucumbers handled by him, would be demoralizing to other handlers and would tend to impair operation of the program.

(l) The provisions of proposed §§ 1015.75 through 1015.91 are common to marketing agreements and orders now operating. Each of such sections sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the marketing agreement and order. These provisions are incidental to, and not inconsistent with, sections 8c (6) and (7) of the act, and are necessary to effectuate the declared policy of the act. The substance of such provisions, therefore, should be included in the order.

General findings. Upon the basis of the evidence introduced in the hearing and the record thereof it is found that:

(1) The marketing agreement and order as hereinafter set forth, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act with respect to cucumbers produced in the production area, by establishing and maintaining such orderly

marketing conditions therefor as will tend to establish, as prices to the producers thereof, parity prices and by protecting the interest of the consumer (i) by approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such cucumbers above the parity level, and (iii) by authorizing the establishment and maintenance of such minimum standards of quality and maturity, and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly marketing of such cucumbers as will be in the public interest;

(2) Such marketing agreement and order authorizes regulation of the handling of cucumbers grown in the production area in the same manner as, and is applicable only to, persons in the respective classes of industrial and commercial activities specified in a proposed marketing agreement and order upon which the hearing has been held;

(3) The said marketing agreement and order are limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several marketing agreements and orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the act;

(4) The said marketing agreement and order prescribe, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of cucumbers grown in the production areas; and

(5) All handling of cucumbers, as defined in the said marketing agreement and order, is in the current of interstate or foreign commerce, or directly burdens, obstructs or affects such commerce.

Ruling on proposed findings and conclusions. At the conclusion of the hearing, the Presiding Officer allowed interested parties until January 10, 1957, to file briefs with respect to findings of fact and conclusions based on evidence introduced at the hearings. Subsequently he extended such period until January 25, 1957. The only brief filed was by W. Terry Gibson and Paschal C. Reese, attorneys for the Winter Cucumber Farmers Association, referred to herein, for convenient reference, as the "opponents" of the proposed program.

Each point covered in that brief was considered carefully along with the record in reaching the conclusions herein set forth, and specific reference is made to many of such points at the appropriate places in the discussion.

To the extent that the findings and conclusions proposed in such brief are inconsistent with the findings and conclusions set forth herein, the request to

make such findings and conclusions are denied on the basis of facts found and stated in connection with the findings and conclusions in this recommended decision.

DEFINITIONS

§ 1015.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 1015.2 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

§ 1015.3 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 1015.4 *Production area.* "Production area" means all territory in the State of Florida south or east of the Suwannee River.

§ 1015.5 *Cucumbers.* "Cucumbers" means all varieties of the edible fruit (*Cucumis sativus*) commonly known as cucumbers and grown within the production area.

§ 1015.6 *Handler.* "Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of cucumbers owned by another person) who handles cucumbers or causes cucumbers to be handled.

§ 1015.7 *Handle.* "Handle" or "ship" means to transport, sell, or in any other way to place cucumbers in the current of the commerce between the production area and any point outside thereof: *Provided*, That such terms shall not include: (a) The transportation, sale, or delivery of cucumbers by a producer to a handler registered as such with the committee and who has adequate facilities within the production area for grading; or (b) the transportation to and sale of cucumbers at auction markets designated by the committee. In the event a producer sells cucumbers other than is indicated in paragraphs (a) and (b) of this section, such producer shall be the first handler of such cucumbers.

§ 1015.8 *Producer.* "Producer" means any person engaged in a proprietary capacity in the production of cucumbers for market.

§ 1015.9 *Grading.* "Grading" is synonymous with "preparation for market" and means the sorting or separation of cucumbers into grades, sizes, and packs for market purposes.

§ 1015.10 *Grade and size.* "Grade" means any one of the established grades of cucumbers and "Size" means any one of the established sizes of cucumbers set forth for each grade in U. S. Standards for Cucumbers (§§ 51.2220 to 51.2238 of this title) issued by the United States Department of Agriculture, or amendments thereto, or modifications thereof, or variations based thereon recom-

mended by the committee and approved by the Secretary.

§ 1015.11 *Pack.* "Pack" means a unit of cucumbers in any type of container which falls within specific weight limits or within specific grade, or size limits, or both, recommended by the committee and approved by the Secretary.

§ 1015.12 *Container.* "Container" means a box, bag, crate, hamper, tub, basket, package, carton, or any other type of unit used in the packaging, transportation, sale, shipment, or handling of cucumbers.

§ 1015.13 *Committee.* "Committee" means the Florida Cucumber Committee, established pursuant to § 1015.22.

§ 1015.14 *Fiscal period.* "Fiscal period" means the period beginning August 1 and ending July 31 following.

§ 1015.15 *District.* "District" means each of the geographic divisions of the production area initially established pursuant to § 1015.24, or as reestablished pursuant to § 1015.25.

§ 1015.16 *Export.* "Export" means the shipment of cucumbers beyond the boundaries of the continental United States.

COMMITTEE

§ 1015.22 *Establishment and membership.* (a) The Florida Cucumber Committee consisting of twelve members, of whom eight shall be producers and four shall be handlers, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

(b) Persons selected as committee members or alternates to represent producers or handlers shall be producers or handlers, respectively, or officers or employees of a producer or handler, respectively, in the district for which selected, and a resident of the production area.

§ 1015.23 *Terms of office.* (a) The term of office of committee members, and their respective alternates, shall be for one year and shall begin as of August 1 and end as of July 31 of the following year.

(b) Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during such term of office and continuing until the end thereof, and until their successors are selected and have qualified.

§ 1015.24 *Districts.* For the purpose of determining the basis for selecting committee members the following districts of the production area are hereby initially established:

District No. 1. The counties of Dade, Broward, Palm Beach, St. Lucie, Indian River, Martin and Okeechobee in the State of Florida;

District No. 2. The counties of Lee, Collier, Charlotte, Hendry, Monroe and Glades in the State of Florida;

District No. 3. The counties of Hardee, Manatee, DeSoto, Highlands, Hillsborough, Polk, Sarasota and Pinellas in the State of Florida; and

District No. 4. All of the remaining counties within the production area not included in Districts 1, 2, and 3.

§ 1015.25 Redistricting. The committee may recommend, and pursuant thereto the Secretary may approve, the reestablishment of districts within the production area. In recommending any such changes, the committee shall give consideration to: (a) Shifts in cucumber acreage within districts and within the production area during recent years; (b) the importance of new production in its relation to existing districts; (c) the equitable relationship of committee membership and districts; (d) economies to result for producers in promoting efficient administration due to redistricting; and (e) other relevant factors. In order to provide for nomination and selection of committee members and alternates on the basis of a redistricted production area, the committee shall make such recommendation for redistricting no later than February 1, and, if approved by the Secretary on or before March 15, such redistricting shall become effective at the beginning of the succeeding term of office.

§ 1015.26 Selection. The Secretary shall select two producer members and one handler member of the committee with their respective alternates from each district.

§ 1015.27 Nomination. The Secretary may select the members of the committee and alternates from nominations which may be made in the following manner:

(a) A meeting or meetings of producers shall be held in each district to nominate members and alternates for the committee. For nominations to the initial committee, the meetings may be sponsored by the United States Department of Agriculture or by any agency or group requested to do so by such Department. For nominations for succeeding members and alternates on the committee, the committee shall hold such meetings or cause them to be held prior to July 1 of each year, after the effective date of this subpart;

(b) At each such meeting at least two nominees shall be designated for each position as member and for each position as alternate member on the committee and eligible voters at such meetings may ballot to indicate the ranking of their choice for each nominee;

(c) Nominations for committee members and alternates, shall be supplied to the Secretary in such manner and form as he may prescribe, not later than July 15 of each year;

(d) Only producers may participate in designating nominees for committee members and alternates. In the event a person is engaged in producing cucumbers in more than one district, such person shall elect the district within which he may participate as aforesaid in designating nominees; and

(e) Regardless of the number of districts in which a person produces cucumbers, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nom-

inees for committee members and alternates. An eligible voter's privilege of casting only one vote as aforesaid shall be construed to permit a voter to cast one vote for each position to be filled in the respective district in which he elects to vote.

§ 1015.28 Failure to nominate. If nominations are not made within the time and in the manner specified in § 1015.27, the Secretary may, without regard to nominations, select the committee members and alternates, which selection shall be on the basis of the representation provided for in §§ 1015.24 through 1015.26, inclusive.

§ 1015.29 Acceptance. Any person selected as a committee member or alternate shall qualify by filing his acceptance with the Secretary within ten days after being notified of such selection.

§ 1015.30 Vacancies. To fill committee vacancies, an incumbent alternate member may be selected by the Secretary to fill the position on the committee vacated by the respective member for whom he was alternate, or the Secretary may select such members or alternates from unselected nominees on the current nominee list from the district involved, or from nominations made in the manner specified in § 1015.27. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of the representation provided for in §§ 1015.24 through 1015.26, inclusive.

§ 1015.31 Alternate members. An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

§ 1015.32 Procedure. (a) Eight members of the committee shall be necessary to constitute a quorum and eight concurring votes shall be required to pass any motion or approve any committee action.

(b) The committee may provide for meeting by telephone, telegraph, or other means of communication, and any vote cast at such a meeting shall be confirmed promptly in writing: *Provided*, That if any assembled meeting is held, all votes shall be cast in person.

§ 1015.33 Expenses and compensation. Committee members and alternates may be reimbursed for reasonable expenses necessarily incurred by them in the performance of duties and in the exercise of powers under this part.

§ 1015.34 Powers. The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 1015.35 Duties. It shall be, among other things, the duty of the committee:

(a) As soon as practical after the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees of committee members and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to cucumbers;

(f) To prepare marketing policies from time to time;

(g) To recommend marketing regulations to the Secretary;

(h) To recommend rules and procedures for, and to make determinations in connection with, issuance of certificates of privilege or exemptions, or both;

(i) To investigate an applicant's claim for exemption;

(j) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative. Minutes of each committee meeting shall be reported promptly to the Secretary;

(k) At the beginning of each fiscal period, to prepare a budget of its expenses for such fiscal period, together with a report thereon;

(l) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part; a copy of each report shall be furnished to the Secretary and a copy of each report shall be made available at the principal office of the committee for inspection by producers and handlers;

(m) To prepare and submit to the Secretary at the close of each fiscal period an annual report on operations; and

(n) To consult, cooperate, and exchange information with other marketing agreement committees and other individuals or agencies in connection with all proper committee activities and objectives under this part.

EXPENSES AND ASSESSMENTS

§ 1015.40 Expenses. The committee is authorized to incur such expenses as the Secretary may find are reasonable

and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Handlers shall share expenses upon the basis of a fiscal period. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of cucumbers handled by him under regulation as the first handler thereof during a fiscal period and the total quantity of cucumbers handled by all handlers under regulation as first handlers thereof during such fiscal period.

§ 1015.41 *Budget.* At the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ 1015.42 *Assessments.* (a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who first handles cucumbers shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations or other available information. Such rates may be applied to specified containers used in the production area.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all cucumbers which were regulated under this part and which were shipped by the first handler thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

§ 1015.43 *Accounting.* (a) All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member of the committee or alternate,

he shall account to his successor, the committee, or to the person designated by the Secretary, for all receipts, disbursements, funds and property (including, but not being limited to, books and other records) pertaining to the committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designated person, the right to all of such property and funds and all claims vested in such persons.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and, if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

§ 1015.44 *Refunds.* At the end of each fiscal period, monies arising from the excess of assessments collected over expenses shall be accounted for as follows:

(a) Except as provided in paragraph (b) of this section, each handler entitled to a proportionate refund of the excess assessments collected shall be credited at the end of a fiscal period with such refund against the operations of the following fiscal period unless he demands payment thereof, in which event such proportionate refund shall be paid to him; or

(b) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal period which are in excess of the expenses necessary for committee operations during such period may be carried over into following periods as a reserve. Upon approval by the Secretary, such reserve may be established and maintained in an amount not to exceed one fiscal period's operating expenses and may be used to cover the necessary expenses of liquidation in the event of termination of this part and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal period when there is a crop failure and during any period of suspension of any or all of the provisions of this part. Such reserve may also be used by the committee to finance its operations during any fiscal period prior to the time that assessment income is sufficient to cover such expenses but any of the reserve funds so used shall be returned to the reserve as soon as assessment income is available for this purpose. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practicable such funds shall be returned pro rata to the persons from whom such funds were collected.

RESEARCH AND DEVELOPMENT

§ 1015.48 *Research and development.* The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of cucumbers. Such projects shall be financed from assessments collected.

REGULATION

§ 1015.50 *Marketing policy.* Prior to or at the same time as initial recommendations are made pursuant to § 1015.51, the committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for the industry to follow in handling cucumbers during the ensuing season. Additional reports shall be submitted from time to time if it is deemed advisable by the committee to adopt a new or modified marketing policy because of changes in the demand and supply situation with respect to cucumbers. The committee shall publicly announce the submission of each such marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or any handler. In determining each such marketing policy the committee shall give due consideration to the following:

(a) Market prices of cucumbers including prices by grades, sizes, and quality in different packs, in the production area and in competing areas;

(b) Supply of cucumbers, by grade, size, and quality in the production area, and in other production areas;

(c) Trend and level of consumer income;

(d) Marketing conditions affecting cucumber prices; and

(e) Other relevant factors

§ 1015.51 *Recommendations for regulations.* The committee, upon complying with the requirements of §§ 1015.32 and 1015.50, may recommend regulations to the Secretary whenever it finds that such regulations, as are provided for in this subpart, will tend to effectuate the declared policies of the act.

§ 1015.52 *Issuance of regulations.* The Secretary shall limit the handling of cucumbers whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such regulation may:

(a) Limit, in any or all portions of the production area, the handling of particular grades, sizes, qualities, maturities, varieties, or packs of cucumbers during any period; or

(b) Limit the handling of particular grades, sizes, qualities, maturities, or packs of cucumbers differently, for different varieties, for different portions of the production area, for different containers, for different purposes specified in § 1015.54, or any combination of the foregoing, during any period; or

(c) Limit the handling of cucumbers by establishing, in terms of grades, or sizes, or both: (1) Minimum standards

of quality and maturity which shall be effective irrespective of whether the seasonal average price of cucumbers is in excess of the parity level specified in section 2 (1) of the act; and/or (2) pack specifications for the several commercially recognized grades of equal or better quality than the said minimum standards of cucumbers which may be handled pursuant to subparagraph (1) of this paragraph; or

(d) Fix the size, weight, capacity, dimensions, or pack of the container or containers which may be used in the packaging, transportation, sale, shipment, or other handling of cucumbers.

§ 1015.53 *Minimum quantities.* The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which handling will be free from regulations issued or effective pursuant to §§ 1015.42, 1015.52, 1015.54, 1015.60, or any combination thereof.

§ 1015.54 *Shipments for special purposes.* Upon the basis of recommendations and information submitted by the committee, or other available information, the Secretary, whenever he finds that it will tend to effectuate the declared policy of the act, shall modify, suspend, or terminate regulations issued pursuant to §§ 1015.42, 1015.52, 1015.53, or § 1015.60 or any combination thereof, in order to facilitate handling of cucumbers for the following purposes:

- (a) For export;
- (b) For relief or for charity;
- (c) For conversion into pickles or relishes; or
- (d) For other purposes or products which may be specified by the committee, with the approval of the Secretary.

§ 1015.55 *Notification of regulation.* The Secretary shall notify the committee of any regulations issued or of any modification, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

§ 1015.56 *Safeguards.* (a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent handling of cucumbers pursuant to § 1015.54 from entering channels of trade for other than the specific purpose authorized therefore, and rules governing the issuance and the contents of Certificates or Privilege if such certificates are prescribed as safeguards by the committee. Such safeguards may include any or all requirements that:

- (1) Handlers shall file applications with the committee to ship cucumbers pursuant to § 1015.54; or
 - (2) Handlers shall obtain inspection provided by § 1015.60, or pay the assessment levied pursuant to § 1015.42, or both, in connection with shipments made under § 1015.54; or
 - (3) Handlers shall obtain Certificates of Privilege from the committee to handle cucumbers pursuant to the provisions of § 1015.54.
- (b) The committee may rescind or deny Certificates of Privilege to any handler if proof is obtained that cucumbers handled by him for the purposes

stated in § 1015.54 were handled contrary to the provisions of this part.

(c) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

(d) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of cucumbers covered by such applications, the number of such applications denied and certificates granted, the quantity of cucumbers handled under duly issued certificates, and such other information as may be requested.

INSPECTION

§ 1015.60 *Inspection and certification.*

(a) During any period in which handling of cucumbers is regulated pursuant to § 1015.52 or § 1015.54, or any combination thereof, no handler shall handle cucumbers unless each such handling is inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate, except when relieved from such requirements pursuant to § 1015.53 or § 1015.54, or both.

(b) Regrading, resorting, or repacking any lot of cucumbers shall invalidate any prior inspection certificates insofar as the requirements of this section are concerned. In such event, the person responsible shall be considered the first handler of the regraded, resorted, or repacked quantity and liable for the payment of assessments thereon pursuant to § 1015.42. No handler shall handle cucumbers after they have been regraded, resorted, repacked, or in any other way further prepared for market, unless each lot of such cucumbers is inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate: *Provided.* That the committee, with approval of the Secretary, may provide for waiving inspection requirements on any cucumbers in circumstances where it appears reasonably certain that, after regrading, resorting, or repacking, such cucumbers meet the applicable quality and other standards then in effect.

(c) Prior to handling any lot of cucumbers, the handler shall obtain an inspection certificate for such lot from the Federal-State Inspection Service. Upon recommendation of the committee with approval of the Secretary, every such inspection certificate shall show, in addition to such other information as the committee may specify, the name and address of the handler, the quantity, grade, size, and pack of the cucumbers in the lot, and that the cucumbers conform to the pack specifications, if any, and the minimum standards of quality and maturity prescribed pursuant to § 1015.52. Each lot so inspected and certified shall, upon recommendation of the committee with approval of the Secretary, be identified by appropriate seals, stamps, or tags affixed to each of the containers by the handler under the direction and supervision of the committee or the inspection service, showing that the

minimum standards of quality and maturity have been met and, in addition, the particular pack specifications of the lot, if such pack specifications are then in effect.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When the cucumbers are inspected in accordance with the requirements of this section a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

EXEMPTIONS

§ 1015.65 *Procedure.* The committee may adopt, with approval of the Secretary, the procedures pursuant to which certificates of exemption will be issued to producers or handlers.

§ 1015.66 *Granting exemptions.* The committee shall issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee, that, by reason of a regulation issued pursuant to § 1015.52, he will be prevented from handling as large a proportion of his production as the average proportion of production handled during the entire season, or such portion thereof as may be determined by the committee, by all producers in said applicant's immediate production area and that the grade, size, or quality of the applicant's cucumbers have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate shall permit the producer to handle the amount of cucumbers specified thereon. Such certificate shall be transferred with such cucumbers at time of transportation or sale.

§ 1015.67 *Investigation.* The committee shall be permitted at any time to make a thorough investigation of any producer's or handler's claim pertaining to exemptions.

§ 1015.68 *Appeal.* If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination, and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

§ 1015.69 *Records.* (a) The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued or denied, a record of the quantity of cucumbers covered by such exemption certificates, a record of the amount of cucumbers handled under

exemption certificates, a record of appeals for reconsideration of applications, and such other information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the committee upon request of the Secretary.

(b) The Secretary shall have the right to modify, change, alter, or rescind any procedure and any exemptions granted pursuant to §§ 1015.65, 1015.66, 1015.67, or § 1015.68, or any combination thereof.

REPORTS

§ 1015.70 *Reports.* Upon request of the committee, made with approval of the Secretary, each handler shall furnish to the committee, in such manner and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to, the following: (1) The quantities of cucumbers received by a handler; (2) the quantities disposed of by him, segregated as to the respective quantities subject to regulation and not subject to regulation; (3) the date of each such disposition and the identification of the carrier transporting such cucumbers; and (4) the identification of the inspection certificates and the exemption certificates, if any, pursuant to which the cucumbers were handled, together with the destination of each exempted disposition, and of all cucumbers handled pursuant to § 1015.53, or § 1015.54, or both.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which might adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to prohibition of disclosure of individual handlers identities or operations.

(c) Each handler shall maintain for at least two succeeding years after the particular fiscal period such records of the cucumbers received and disposed of by such handler as may be necessary to verify the reports he submits to the committee pursuant to this section.

EFFECTIVE TIME AND TERMINATION

§ 1015.75 *Effective time.* The provisions of this subpart, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

§ 1015.76 *Termination.* (a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operations of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers, who, during a representative period, have been engaged in the production for market of cucumbers: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such cucumbers produced for market.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 1015.77 *Proceedings after termination.* (a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall continue as joint trustees for the purpose of liquidating the affairs of the committee of all the funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ 1015.78 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulations issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

COMPLIANCE

§ 1015.80 *Compliance.* Except as provided in this part, no handler shall handle cucumbers, the handling of which has been prohibited by the Secretary in accordance with the provisions of this part, and no handler shall handle cucumbers except in conformity to the provisions of this part.

MISCELLANEOUS PROVISIONS

§ 1015.82 *Right of the Secretary.* The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to approve or disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 1015.83 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 1015.84 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the United States, or name any agency in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 1015.85 *Derogation.* Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 1015.86 *Personal liability.* No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 1015.87 *Separability.* If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 1015.88 *Amendments.* Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

§ 1015.89 *Counterparts.*¹ This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

¹ Applicable only to the proposed marketing agreement.

§ 1015.90 *Additional parties.*¹ After the effective date hereof, any handler who has not perviously executed this agreement may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§ 1015.91 *Order with marketing agreement.*¹ Each signatory handler favors and approves the issuance of an order by the Secretary regulating the handling of cucumbers in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.

Dated: March 13, 1957.

[SEAL] F. R. BURKE,
Acting Deputy Administrator,
Marketing Service.

[F. R. Doc. 57-2058; Filed, Mar. 18, 1957;
8:47 a. m.]

Agricultural Research Service [7 CFR Part 301]

CITRUS CANKER DISEASE FROM HAWAII PROPOSED REVOCATION OF QUARANTINE

Notice is hereby given under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), that the Administrator of the Agricultural Research Service, pursuant to sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162), is considering the revocation of notice of quarantine No. 75 relating to the movement of citrus nursery stock from Hawaii because of the citrus canker disease (7 CFR 301.75).

Surveys by plant pathologists of the United States Department of Agriculture of citrus groves in the islands of Hawaii were conducted in 1951, 1954, and during December 1956 and January 1957. The latest survey included 5,302 trees at 93 sites. No symptoms of the citrus canker disease have been observed during any of these surveys.

Since climatic conditions in Hawaii appear to be suitable for the establishment and spread of the citrus canker disease, the negative findings over a 6-year period are considered sufficient evidence that the disease does not occur in the island. Revocation of the Hawaiian Citrus Nursery Stock Quarantine would not affect the movement of citrus fruits from the island, since such fruits are subject to the provisions of Hawaiian Fruits and Vegetables Quarantine No. 13.

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same with the Director of the Plant Quarantine Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C., within 30 days after the date of the publication of this notice in the FEDERAL REGISTER.

¹ Applicable only to the proposed marketing agreement.

ment of Agriculture, Washington 25, D. C., within 30 days after the date of the publication of this notice in the FEDERAL REGISTER.

(Secs. 8, 9, 37 Stat. 318, as amended; 7 U. S. C. 161, 162; 7 CFR 301.75)

Done at Washington, D. C., this 13th day of March 1957.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F. R. Doc. 57-2079; Filed, Mar. 18, 1957;
8:51 a. m.]

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration

[14 CFR Part 406]

CERTIFICATION PROCEDURES

NOTICE OF PROPOSED RULE MAKING

The Civil Aeronautics Administration proposes to revise procedures concerning physical examination and medical certification of airmen requiring a third-class medical certificate. A definition of "designated medical examiner" is added to § 406.1. Section 406.12 (c) (1) is amended by adding "private lighter-than-air pilot certificate" to the list of certificate applicants requiring a third-class medical certificate. There is added a provision for the issuance of the third-class medical certificate in two forms, (1) basic and (2) renewal. Section 406.12 (c) (2) is amended by requiring that the physical examination for a basic third-class medical certificate be performed by a designated medical examiner only and that the physical examination for the renewal of a third-class medical certificate be performed by either a designated medical examiner or by any other competent, licensed physician. Section 406.12 (c) (3) is amended to change the title of the third-class medical certificate to "Medical Certificate—Third Class (Basic)" and "Medical Certificate—Third Class (Renewal)".

All interested persons who desire to submit comments and suggestions for consideration by the Administrator of Civil Aeronautics in connection with the proposed rules shall send them to the Civil Aeronautics Administration, Washington 25, D. C., within 30 days after publication of this notice in the FEDERAL REGISTER.

1. Section 406.1 is amended by adding a new paragraph (e) to read as follows:

§ 406.1 Definitions of terms. * * *

(e) "Designated medical examiner" shall mean an individual holding a letter of designation from the Civil Aeronautics Administration authorizing him to perform the physical examinations required by this part to be performed by a designated medical examiner.

2. The first sentence of § 406.11 (b) is amended to read as follows: "A physical examination, where required, will be given by a designated medical examiner or by any other competent, licensed physician as indicated in this subpart."

3. Section 406.12 (c) is amended to read as follows:

§ 406.12 Medical certificates. * * *
(c) Third-class medical certificate. * * *

(1) Purpose. This medical certificate is issued to applicants for a student pilot certificate, private pilot certificate, student or private lighter-than-air pilot certificate, free balloon pilot certificate, and flight radio operator certificate as evidence that the applicant meets the physical requirements of the Civil Air Regulations. It is issued in two forms, (i) the basic medical certificate issued at the time of the original issuance of the appropriate airman certificate and (ii) the renewal medical certificate issued subsequent to the expiration of the basic medical certificate.

(2) Examination. The physical examination for the basic medical certificate shall be given by a designated medical examiner only. An examination for the renewal of a medical certificate shall be given by a designated medical examiner¹ or by any other competent, licensed physician.

(3) Issuance. The basic medical certificate will be issued on Form ACA-1005, Medical Certificate—Third Class (Basic). The renewal medical certificate will be issued on Form ACA-1005.1, Medical Certificate—Third Class (Renewal).

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply secs. 601, 602, 52 Stat. 1007, as amended, 1008, 49 U. S. C. 551, 552)

[SEAL] JAMES T. PYLE,
Administrator of Civil Aeronautics.

[F. R. Doc. 57-2042; Filed, Mar. 18, 1957;
8:45 a. m.]

Federal Maritime Board

[46 CFR Part 244]

[Gen. Order 72, Revised]

BUSINESS PRACTICES OF FREIGHT FORWARDERS

NOTICE OF PROPOSED RULE MAKING

Whereas, it appearing that forwarders, brokers, carriers and other persons subject to the Shipping Act, 1916, have not established and do not observe and enforce just and reasonable regulations and practices relating to or connected with the receiving, handling, storing, or delivery of cargo, including, without limitation, the performance of forwarding services, charges for such services, the performance of brokerage services, and the payment and collection of brokerage fees, as required by the Shipping Act, 1916, and the decisions and rules and regulations of the Federal Maritime Board;

Now, therefore, notice is hereby given that, in accordance with the provisions of sections 15, 16, 17 and 21 of the Shipping Act, 1916, as amended, section 204 of the Merchant Marine Act, 1936, as

¹ A list of the designated medical examiners in any area may be obtained by addressing a request to the CAA Regional Flight Surgeon of the region in which the area is located.

amended, section 19 of the Merchant Marine Act, 1920, as amended and section 4 of the Administrative Procedure Act, the Federal Maritime Board has under consideration proposed revision of the rules and regulations relating to the business and practices of freight forwarders prescribed by General Order 72, as amended, 15 F. R. 3152, 18 F. R. 8807.

The purpose of the proposed revised rules is to clarify the definition of freight forwarders, define "broker," "brokerage," "brokerage service," and other terms, provide annual registration of forwarders, clarify the provisions relating to brokerage so as to eliminate automatic payment of unearned brokerage commissions, provide for the filing of agreements pursuant to section 15 of the Shipping Act, 1916, and eliminate certain unjust and unreasonable practices in the forwarding industry.

All persons interested in the proposed revised rules and regulations herein below set out may file with the Secretary of the Federal Maritime Board, Washington 25, D. C., within sixty (60) days of the publication of this notice in the *FEDERAL REGISTER*, written views and suggestions thereon, together with a statement of their interest therein.

It is proposed to supersede Part 244 (46 CFR Part 244) by the following new Part 244:

- Sec.
 244.1 Definitions.
 244.2 Registration.
 244.3 Additional information.
 244.4 Information available to public.
 244.5 Registration numbers.
 244.6 Registration lists.
 244.7 Billing practices.
 244.8 Consolidated shipments.
 244.9 Special contracts.
 244.10 Nondiscriminatory treatment required.
 244.11 Exceptions as to special contracts.
 244.12 Forwarders' receipts.
 244.13 Brokerage payments.
 244.14 Registration form.
 244.15 Section 15 agreements.
 244.16 Carrier performing forwarding services.
 244.17 Penalties for violations.
 244.18 Effective date.

AUTHORITY: §§ 244.1 to 244.18 issued under sec. 204, 49 Stat. 1987, as amended, 46 U. S. C. 1114; sec. 19, 41 Stat. 995, 46 U. S. C. 876. Interprets or applies 39 Stat. 728; 46 U. S. C. 814, 815, 816, 820.

§ 244.1 *Definitions.* (a) "Freight forwarder" means any person engaged in the business of dispatching or facilitating shipments on behalf of other persons, by common carrier by water in commerce from the United States, its territories or possessions to foreign countries, or between the United States and its territories or possessions, or between such territories and possessions; and of handling the formalities incident to such shipments. This definition includes independent freight forwarders, common carriers, manufacturers, exporters, export traders, manufacturers' agents, resident buyers, brokers, commission merchants and other persons when they engage for and on behalf of any person other than themselves, in the aforementioned activity.

(b) "Freight forwarding service" means a service rendered by a freight

forwarder on behalf of other persons in the process of dispatching or facilitating an export shipment as authorized by such persons. Such services include but are not limited to, the following: Examining instructions and documents received from shippers; ordering cargo to port; preparing export declaration; booking cargo space; preparing and processing delivery order, and dock receipt; preparing instructions to truckman or lighterman, and arranging for or furnishing such facilities; preparing and processing ocean bills of lading; preparing consular documents, and arranging for their certification, in the language of the country to which the goods are shipped; arranging for or furnishing warehouse storage when necessary; arranging for insurance when so instructed; clearing shipment in accordance with United States Government regulations; preparing advice notices of shipments, sending copies to bank, shipper or consignee, as required; sending completed documents to shipper, bank or consignee as directed; advancing necessary funds in connection with the foregoing; providing supervision in the coordination of services rendered to shipment from origin to vessel, rendering special service on unusual shipments or when difficulties in transit arise; and giving expert advice to exporters as regards letters of credit, licenses, inspection.

(c) "Freight forwarding fee" means compensation paid for the performance of a freight forwarding service.

(d) "Broker" means any person not a common carrier by water, as defined in this section, and not regularly employed by any such carrier or by a shipper in a capacity other than as a forwarder or broker, who sells or offers for sale transportation as defined in this section, or negotiates for or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

(e) "Common carrier by water" means a common carrier by water engaged in the transportation of property on ocean-going vessels in commerce from the United States, its territories or possessions to foreign countries, or between the United States and its territories and possessions, or between such territories and possessions.

(f) "Transportation" means transportation of property by common carrier by water on ocean-going vessels in commerce from the United States, its territories or possessions to foreign countries, or between the United States and its territories and possessions, or between such territories and possessions.

(g) "Brokerage service" means securing cargo for a ship by selling transportation by a broker as defined in this section.

(h) "Brokerage" or "brokerage fee" means compensation paid by a common carrier by water for the performance of a brokerage service for such common carrier.

(i) "Person" includes corporations, partnerships, and associations, existing under or authorized by the laws of the United States, or any State, Territory,

District, or possession thereof, or of any foreign country.

§ 244.2 *Registration.* All persons who engage in business as a freight forwarder shall register with the Federal Maritime Board before engaging in such business and shall register annually thereafter on or before March 1 of each year, provided that persons who have registered under the rules and regulations in this part and received a registration number need not re-register before the next annual registration date. Registration shall be accomplished by executing and filing with the Federal Maritime Board Freight Forwarder Registration Form FMB-21 (§ 244.14) which will be furnished by the Federal Maritime Board upon request. For good cause shown, the Federal Maritime Board upon written request of the registrant, may extend the time for registration.

§ 244.3 *Additional information.* Registrants shall submit such additional information as the Federal Maritime Board may request from time to time, and shall notify the Federal Maritime Board of any change in facts reported to it under this part within ten days after such change occurs. Failure to comply with this section by a forwarder will be deemed sufficient reason to cancel his registration.

§ 244.4 *Information available to public.* Information set forth in Freight Forwarder Registration Form FMB-21 shall be public information and available for public inspection at the offices of the Federal Maritime Board.

§ 244.5 *Registration numbers.* (a) Each person who intends to engage in business as a forwarder and has filed the required information will be issued a registration number by the Federal Maritime Board after examination and verification of the information submitted by him and a determination that the issuance of a registration number will not be inconsistent with this part or the Shipping Act, 1916. Thereafter such registration number shall be set forth on the registrant's letterheads, invoices, advertising, and all other documents relating to his forwarding business. The issuance of a registration number by the Federal Maritime Board to a forwarder is for identification and informational purposes and does not mean that the Board has investigated and found that the forwarder is qualified. Use of these registration numbers in any manner other than to indicate the fact of registration with the Federal Maritime Board is prohibited.

(b) A forwarder's registration may be suspended or cancelled after notice and hearing, if the Federal Maritime Board finds that the registrant has violated the rules in this part or the Shipping Act, 1916.

(c) Any forwarder who fails to re-register with the Federal Maritime Board as provided in § 244.2 shall automatically lose his registration number.

(d) A forwarder may not transfer or assign his registration number.

(e) A forwarder shall not be entitled to register under more than one name or to obtain more than one registration number regardless of the number of

names under which he may be doing business. Where two or more corporations are owned or controlled by substantially the same interests they shall be treated as one entity for the purpose of registration and they shall not be entitled to separate numbers.

§ 244.6 *Registration lists.* The Board will compile annually, and make available to the public upon request, lists of all registrants with their respective registration numbers.

§ 244.7 *Billing practices.* All forwarders shall use invoices or other forms of billing which state separately and specifically, as to each shipment:

(a) The amount of ocean freight assessed by the carrier;

(b) The amount of consular fees paid to consular authorities;

(c) The actual cost to the forwarder of insuring the shipment whether by a policy bought in the name of the shipper or by an open policy or otherwise;

(d) The amount charged for each accessorial service performed in connection with the shipment;

(e) Other charges;

(f) The amount of any brokerage fees which the forwarder has collected or believes that he is entitled to collect from the carrier.

Provided, however, That forwarders who offer to the public at large to forward small shipments for uniform charges available to all and duly filed with the Federal Maritime Board, shall not be required to itemize the components of such uniform charges on shipments as to which the charges shall have been stated to the shipper at time of shipment, and accepted by the shipper for payment; but if such forwarders procure marine insurance to cover such shipments, they must state their total charge for such insurance, inclusive of premiums and placing fees, separately from the aforementioned uniform charge.

§ 244.8 *Consolidated shipments.* In the case of individual shipments consolidated with other individual shipments, the invoice or other form of billing concerning each shipment shall state the minimum ocean freight and consular fees that would have been payable on each shipment if shipped separately, and the amounts actually charged for these items by the forwarder, on the shipment in question.

§ 244.9 *Special contracts.* All special agreements or contracts between forwarders and shippers or consignees shall be in writing and shall be maintained in the files of the forwarder for a period of 12 months, and submitted to the Federal Maritime Board upon request.

§ 244.10 *Nondiscriminatory treatment required.* To the extent that special agreements or contracts are entered into by a forwarder with individual shippers or consignees, such forwarder shall not deny to other shippers or consignees similarly situated, and whose shipments are accepted by such forwarder, equal charges for forwarding and accessorial services to be rendered by the forwarder, insofar as such forward-

ing and accessorial services are similar to those performed for shippers or consignees holding special contracts; and such forwarder shall advise such other shippers or consignees as to the terms under which such special contracts or agreements are available.

§ 244.11 *Exceptions as to special contracts.* In the case of special contracts whereby the parties have agreed in advance as to the charges for services in connection with the forwarding of a shipment, the invoice or other form of billing shall refer to the agreement, in which event the charges need not be itemized.

§ 244.12 *Forwarders' receipts.* Forwarders' receipts for cargo shall be clearly identified as such and shall not be in form purporting to be ocean carriers' bills of lading.

§ 244.13 *Brokerage payments.* (a) No common carrier by water shall pay brokerage to a forwarder or broker except as compensation for the performance of a brokerage service as defined in § 244.1, and to the extent authorized by the carrier's tariff.

(b) No forwarder or broker shall charge or receive brokerage from a common carrier by water except for the performance of a brokerage service as defined in § 244.1.

(c) No forwarder or broker shall charge or accept compensation from both a shipper and a common carrier by water in connection with the same shipment, without first advising both parties of the amount and basis for the charge or payment by the other.

(d) No forwarder may render, or offer to render, any forwarding service free of charge or at reduced rates in consideration of the shipper or carrier agreeing to allow or allowing the forwarder to receive brokerage on the shipment.

(e) Steamship lines when acting in accordance with approved section 15 agreements or an individual carrier may make rules and regulations to assure that brokerage will not be paid under circumstances which will violate the Shipping Act, 1916, or the rules in this part.

(f) No forwarder or broker or other person shall collect brokerage from a common carrier by water, and no such carrier shall pay brokerage to any forwarder or broker or other person, in cases where payment thereof would constitute a rebate, such as, for example, where the forwarder or broker or other person: (1) Is the shipper or consignee or is the seller or purchaser or purchasing agent of the shipment, (2) advances the purchase price of the goods shipped or guarantees payment therefor, or has any beneficial interest therein, (3) directly or indirectly, by stock ownership or otherwise, controls or is controlled by the shipper or consignee, or seller or purchaser or purchasing agent of the shipment or by any person having a beneficial interest in the shipment or person advancing the purchase price of the goods shipped or guaranteeing payment therefor, and (4) where the forwarder or broker and the shipper, consignee, seller or purchaser or

purchasing agent, or person advancing the purchase price of the goods shipped or guaranteeing payment therefor are owned or controlled by substantially the same interests.

(g) No forwarder or broker shall share directly or indirectly any part of the brokerage received from a common carrier by water with a shipper, consignee, or an employee of a shipper or consignee or seller or purchaser or purchasing agent of the shipment or person advancing the purchase price of the goods shipped or guaranteeing payment therefor, or with any person having a beneficial interest in the shipment.

(h) After the date on which a forwarder is required to register or re-register, no forwarder shall accept brokerage from a common carrier by water and no such carrier shall pay brokerage to any forwarder before such forwarder has been assigned a registration number pursuant to the rules in this part or during any period of suspension or cancellation of the forwarder's registration number.

(i) No common carrier by water shall pay brokerage to a forwarder or broker when the receipt of such brokerage by the forwarder is prohibited by the rules in this part or the Shipping Act, 1916, as amended.

(j) No forwarder or broker shall charge or receive compensation from a common carrier by water for brokerage service performed in connection with any shipment which he owns or in which he has a material interest, or the routing of which he controls by reason of any affiliation with, or non-brokerage relationship to, the shipper, consignor, or consignee as traffic consultant or otherwise, or which he controls by reason of his performance for the shipper, consignor, or consignee of forwarding services or other non-brokerage services.

§ 244.14 *Registration form.* Form FMB-21¹ is hereby prescribed for registration under § 244.2.

§ 244.15 *Section 15 agreements.* (a) Copies of written agreements and true and complete memoranda of oral agreements between a freight forwarder and another freight forwarder or carrier or other person subject to the Shipping Act, 1916, or modifications or cancellations thereof, which relate to one or more of the following subjects must be filed with the Board:

(1) Fixing or regulating transportation rates or fares;

(2) Giving or receiving special rates, accommodations or other special privileges or advantages;

(3) Controlling, regulating, preventing or destroying competition;

(4) Pooling or apportioning earnings, losses, or traffic (including sharing or dividing forwarding or brokerage fees with another forwarder);

(5) Allotting ports or restricting or otherwise regulating the number and character of sailings between ports;

(6) Limiting or regulating in any way the volume or character of freight or passenger traffic to be carried;

¹ Filed as part of the original document.

(7) In any manner providing for an exclusive, preferential or cooperative working arrangement.

(b) Copies of all such agreements referred to in paragraph (a) of this section are required to be filed with the Federal Maritime Board accompanied by a letter stating that they are offered for filing in compliance with section 15 of the Shipping Act, 1916, specifically requesting the Board's approval and addressed as follows:

Federal Maritime Board,
Regulation Office,
Washington 25, D. C.

(c) All copies or memoranda of agreements, modifications or cancellations thereof submitted for the Board's approval under section 15 shall clearly show (preferably in the opening paragraph), their nature, the parties, ports, and subject matter in detail, and reference to any previously filed agreements to which they may relate.

(d) Performance under a section 15 agreement, modification or cancellation thereof is not authorized until the Board has expressly approved it.

§ 244.16 Carrier performing forwarding services. Any carrier performing forwarding services shall specify in his tariff the kinds of forwarding services performed by him and the charges made for such services.

§ 244.17 Penalties for violations. Penalties for violations of this part are prescribed by section 806 (d) of the Merchant Marine Act, 1936, 46 U. S. C. 1228.

§ 244.18 Effective date. (To be determined by the Board after the receipt of comments.)

Dated: March 11, 1957.

By order of the Federal Maritime Board.

[SEAL]

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-2016; Filed, Mar. 18, 1957;
8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 11660; FCC 57-239]

RADIO BROADCAST SERVICES

MAIN STUDIO AND STATION IDENTIFICATION OF TELEVISION BROADCAST STATIONS

In the matter of amendment of Part 3 of the rules and regulations governing Main Studio and Station Identification of Television Broadcast Stations.

1. In a notice of proposed rule making adopted in this proceeding March 21, 1956, we requested comments on proposals to amend the Commission's rules so as to permit the licensing of television stations, under certain conditions, to serve, maintain main studios in, and identify themselves in their announcements of station identification with more than one principal community.

2. Under the present rules, television stations are licensed to serve and identify themselves with only one "principal

community". The Table of Assignments in § 3.606 of the rules assigns television channels to single cities, except for a relatively small number of cases in which channels are assigned to two or three hyphenated cities. Under section 3.607 (a) applications may be filed only for stations on the assigned channels, in the listed communities. Section 3.607 (b) provides that a channel assigned to two or more communities in combination (i. e., cities "hyphenated" under the Table of Assignments), is available separately for each such community. Also, under § 3.607 (b), an applicant may request authorization for a station to serve any individual city lacking a commercial channel assignment, which is located within 15 miles of the city or cities listed for the particular assignment in § 3.606.

3. Section 3.613 requires that the main studio of a television station be located within the principal community the station is authorized to serve, unless another location is authorized. The requirements of § 3.652 concerning station identification relate to identification with the city which the station is authorized to serve as its principal community. Section 3.658 (b), relating to territorial exclusivity in the broadcast of network programs, refers to the single community in which a station is "located", as specified in the station's instrument of authorization. Section 3.685, relating to transmitter location and minimum city signal refers, in the singular, to the "principal community to be served".

4. Before discussing the policy considerations affecting the proposed amendments, we turn to a threshold question concerning the Commission's statutory power to license television stations to serve, maintain studios in and identify themselves in station announcements with more than one principal community. Some of the parties to this proceeding contend that this would violate section 307 (b) of the Communications Act of 1934, as amended. We do not agree.

5. Section 307 (b) of the act reads, as follows:

In considering applications for licenses, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient and equitable distribution of radio service to each of the same.

This language neither contains any express prohibition against authorizing television stations to serve, maintain studios in and identify themselves with more than one principal community, nor, in our opinion, can it properly be interpreted to imply such a prohibition. For years, standard broadcast and FM stations have been authorized, under conditions specified in the rules (§§ 3.30 and 3.205, respectively), to maintain main studios in and identify themselves with more than one principal city. The fair, efficient and equitable distribution of radio service among the several States and communities within the means of section 307 (b) has never been held by the courts to preclude the maintenance

by broadcast stations of main studios in, or identification with more than one principal city. Nowhere in the legislative history of section 307 (b) is there any basis for inferring Congressional intent that in applying the mandate of the section, the Commission be precluded from licensing a broadcast station to serve more than one principal city or community to maintain main studios in more than one place, or to identify itself with more than one city.

6. We believe that if Congress had intended such a marked exception from the wide latitude otherwise permitted the Commission in effectuating the fair, efficient and equitable distribution of radio service among the several States and communities, it would have embodied such a limitation in clear, express language. In the absence of such language, we construe section 307 (b) to permit the authorization of multiple principal city service and identification by stations in any of the broadcast services. Our decision therefore turns on policy rather than legal considerations.

7. Parties who support the proposed amendments have pointed out that in a number of cases a television station licensed to serve a particular city as its principal community, and required by § 3.652 to identify itself with that city in certain station announcements, in fact renders a city-grade signal throughout a neighboring city in which it maintains a separate studio. It is also pointed out that not only do such television stations render a full service to cities other than the one they are licensed to serve as their principal community, but also that they may find themselves in active competition with stations in the neighboring city. They compete for audience, for economic support and for local program sources and local talent. In some cases, moreover, the larger part of the audience served by a television station resides in or near a city other than the station's principal community. In practice, therefore, such a station is commonly identified in the minds of both listeners and advertising sponsors with more than one city or location. It is argued that in the foregoing circumstances, it would be appropriate for the Commission to broaden the rules so as to provide for the inclusion of more than one city in the required announcements of station identification.

8. In our notice of proposed rule making we raised questions concerning whether, if the proposed amendments were adopted, it would be desirable to impose certain types of conditions, such as a requirement that the cities included in the station identification announcements be hyphenated in the Table of Assignments or fall within the 15-mile rule, a provision that the amendment extend only to cities with common interests or which form part of a single overall community, and requirements concerning the provision of a minimum city-grade signal, a local studio, and a minimum amount of local live programming. The comments on these and related questions reflect a wide diversity of views, and raise serious doubts not only concerning the desirability of wide-scale

departures from the present system of station identification with single city, but also concerning the feasibility of formulating fixed criteria whose application to differing local situations would reliably indicate the cases in which an exception to the general rule might be justified.

9. Concerning the first question, some parties would permit the inclusion only of cities which are "hyphenated" in the Table of Assignments. Others would broaden this to include cities within the "15-mile" rule of § 3.607 (b). It has been pointed out, however, that the purposes for which the Commission invoked the flexibility afforded by hyphenation do not necessarily relate to the considerations affecting whether it would be justifiable, in exceptional cases, to authorize the official identification of a television station with more than one city. Depending upon the circumstances, the criterion of hyphenation (whether or not extended to include cities within the 15-mile rule) might prove to be unduly restrictive in some instances, and unduly extensive in others. We have therefore concluded that hyphenation should be discarded as a possible criterion.

10. In paragraph 7 of our notice of proposed rule making we raised questions concerning the desirability and the feasibility of establishing criteria relating to the existence or absence of a community of interests between cities as one of the bases for determining whether authorization of multiple city identification would be appropriate. On this point most of the comments were in substantial agreement on the proposition that the concept of a community of interests is too broad and indefinable to permit its use as a criterion for the purposes of establishing a demarcation line between cases where multiple city identification might be justifiable and those where it would not be justified. We agree with those views, and have accordingly concluded that it is necessary to discard community of interests as a possible criterion.

11. In response to other questions raised in our notice of proposed rule making, numerous comments were directed to the question of whether authorization for multiple city identification should be conditioned on the provision of some fixed minimum amount of local live program originations from each of the individual cities included in multiple city identifications. Some parties advocate that such a condition be imposed, and some comments urged that the limitation be even more restrictive than the one posed in our notice. Other parties argued that any restriction embodied in rigid formulas would be awkward to observe in all the different circumstances which would arise. It was noted, for example, that an appropriate division of local live programming between studios located in different cities might vary according to the relative sizes of the cities, the time of year, the timing of public interest events, local campaigns and other sources of local programming, the nature and the amount of local program services provided by other stations, and other factors. Upon care-

ful consideration of this facet of the problem we have concluded that it would be undesirable to impose rigid minimum requirements on local programming for each of the several cities with which a television station might be authorized to identify itself officially.

12. We have concluded for all the foregoing reasons that it would not be administratively feasible or desirable to adopt broad amendments to the rules embodying criteria which, if met, would automatically qualify a television station for authorization, as an exception to the general rule, to include more than one city in the announcements of station identification required under § 3.652 (a) of the rules.

13. A careful review of all the comments filed in this proceeding has persuaded us, moreover, that no justification has been shown for a general or widespread departure from the established system under which television stations are required to identify themselves officially with a single principal community to which their channel is assigned and which is designated as the location of the station in the station's instrument of authorization. Both because of this fact, and because of the difficulties, already discussed, of drafting amendments for general application which would automatically determine when the authorization of multiple city identification would be justified, we have concluded that the petitions for amendment of the rules filed in this proceeding should be denied.

14. We recognize, at the same time, that in exceptional cases the limitations of the present rules may be unnecessarily restrictive, and may preclude official identification of television stations with the communities they actually serve. As urged by some of the parties, this may very well be the case in some circumstances where the station provides a minimum city signal to more than one city, maintains well-equipped studios in more than one city and renders a full service to more than one city. Thus, although we do not believe that blanket exceptions should be permitted under specific amendments to the rules, we do not on the other hand conclude that it would necessarily be in the public interest to deny all requests for the authorization of official multiple city identification. We believe, therefore, that it would be desirable to consider requests for authorizations to include the name of more than one city in the announcements of station identification required under § 3.652, on the basis of requests for waiver of the limitation in the present rules. We will review any such requests in the light of all the relevant local circumstances, including the provision of a minimum city signal throughout the cities concerned, the applicant's proposals for the provision of studio facilities, the programming services to the cities concerned, other available television services, if any, the hardships, if any, which may be unjustifiably imposed by the present rules, and all other circumstances bearing on a decision as to whether the authoriza-

tion would be justifiable in the individual case as an exception to the general rule.

15. Accordingly, it is ordered, That the petitions for amendment of the rules filed by Peninsula Broadcasting Corporation on July 22, 1955, and by Northwest Publications, Inc. on November 14, 1955, are denied and this proceeding is terminated.

Adopted: March 13, 1957.

Released: March 14, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2069; Filed, Mar. 18, 1957;
8:49 a. m.]

[47 CFR Parts 7, 8]

[Docket No. 11867; FCC 57-250]

STATIONS ON LAND AND ON SHIPBOARD IN THE MARITIME SERVICES

MISSISSIPPI RIVER SYSTEM RADIO-TELEPHONE FREQUENCIES

In the matter of amendment of Parts 7 and 8 of the Commission's rules to make Mississippi River System radio-telephone frequencies available for assignment to one or more coast stations in the vicinity of Mobile, Alabama and to ship stations on the Gulf Intracoastal Waterway and the Alabama River System and connecting inland waters.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 13th day of March 1957:

The Commission having under consideration its notice of proposed rule making in the above-entitled proceeding which was adopted on November 8, 1956, in response to a petition filed on December 22, 1955, by Mobile Marine Radio, Mobile, Alabama;

It appearing that comments in opposition were filed by Warner and Tangle Radio Service, Inc., Aeronautical Radio, Inc. (ARINC), The Central Committee on Radio Facilities of the American Petroleum Institute, American Waterways Operators, Inc. (except one member, Warrior and Gulf Navigation Company which favored the proposal), American Telephone and Telegraph Company and RCA Communications, Inc.; and that two comments were filed supporting the proposal—one, by Mobile Marine Radio, and the other by the aforementioned Warrior and Gulf Navigation Company; and that, Mobile Marine Radio filed a reply comment in rebuttal to the objections filed by Warner and Tangle Radio Service, Inc.; and

It further appearing that if the Mississippi River frequencies were authorized in the Gulf Coast area, adjacent channel interference would be received from and caused to an aeronautical fixed station licensed to operate on 2784 kc at Miami, Florida; and

It further appearing that of the potential users of the service who commented on the proposal only one company alleged a need for additional service while the other users who commented

stated in effect that there was no such need and opposed the proposed extended service, and

It further appearing that The Gulf of Mexico coastline area is now being served by existing public coast stations, including a series of VHF public coast stations along the Gulf Coastline from Panama City, Florida to La Marque (Galveston) Texas; and

It further appearing that no facts have been submitted in this proceeding which show a substantial need for the proposed extension of ship-shore service on the Mississippi River frequencies; and

It further appearing that in view of the potential disadvantages of such an extension and the lack of sufficient specific benefits to be derived therefrom that the proposed extended service would not be warranted;

It is ordered, That, in view of the foregoing, the Notice of Proposed Rule Making in this proceeding is withdrawn and Docket 11867 is closed;

It is further ordered, That that portion of Mobile Marine Radio's petition which gave rise to the issuance of the proposal in the subject docket is hereby denied.

Released: March 14, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2070; Filed, Mar. 18, 1957;
8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

USE OF REGISTRATION STATEMENT UNDER SECURITIES ACT OF 1933

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposed revision of § 240.12b-35 of its general rules and regulations under the Securities Exchange Act of 1934 and a proposed amendment to Form 10-K (§ 249.310) for annual reports under that act.

Section 240.12b-35 permits registrants under the Securities Act of 1933 to file an application for registration of securities on a national securities exchange consisting principally of its registration statement under the Securities Act and any annual, semi-annual or current reports filed pursuant to section 15 (d) of the Securities Exchange Act. The principal purpose of the proposed revision is to conform the rule to the requirements of the Commission's existing forms and to provide that the rule may not be resorted to unless the registration state-

ment filed as a part of the application for registration contains substantially all of the information which would be required by the appropriate application form. The revised rule would also limit its use to registrants under the Securities Act which are subject to the reporting requirements under the Securities Exchange Act.

Form 10-K is the principal form used for annual reports by listed companies and Securities Act registrants which are subject to the reporting requirements under sections 13 and 15 (d) of the Securities Exchange Act. The proposed amendment to this form consists of a new instruction to item 4, which would provide that in case of an extractive enterprise the registrant shall furnish such material information in regard to its production, reserves, etc., as may be necessary to keep reasonably current the information previously reported in regard thereto.

I. Section 240.12b-35 would be revised to read as follows:

§ 240.12b-35. Use of registration statement under Securities Act of 1933.

(a) Any registrant which has effective under the Securities Act of 1933 a registration statement containing substantially all of the information required by the appropriate application form may file an application for registration of any class of securities on a national securities exchange in accordance with the provisions of this section, provided (1) the registration statement is not subject to any proceeding under section 8 (d) of that act or to an order entered thereunder, and (2) the registrant is required to file reports pursuant to section 15 (d) of the Securities Exchange Act of 1934.

(b) An application for registration filed pursuant to this section shall consist of the following information and documents:

(1) The registration statement under the Securities Act of 1933, including financial statements and exhibits and all amendments to such statement, or a composite of such statement as amended. However, any financial statements or exhibits not called for by the appropriation application form may be omitted.

(2) A description of any class of securities being registered, as required by the appropriate application form, unless securities of such class were registered pursuant to the above registration statement.

(3) All annual, semi-annual and current reports, including all amendments thereto, filed by the registrant pursuant to section 15 (d) of the Securities Exchange Act of 1934 since the effective date of the above registration statement.

(4) Any financial statements or exhibits required by the appropriate application form which are not contained in the above registration statement or reports.

(5) The total number of stockholders as of the latest practicable date.

(c) The application for registration shall be filed under cover of the facing sheet of the appropriate application form and shall be signed in accordance with the requirements of that form. Except as otherwise provided in this section, all pertinent provisions of these general rules and regulations relating to the preparation and filing of applications for registration shall apply to applications filed pursuant to this section. The following statement and list of contents shall be set forth on the first page of the application immediately following the facing page thereof:

This application is filed pursuant to § 240.12b-35 of the general rules and regulations under the Securities Exchange Act of 1934 and consists of the following information and documents: (List the contents of the application for registration, commencing with the registration statement under the Securities Act of 1933, identifying it by file number and effective date.)

(d) In copies of the application for registration filed with the Commission, the registrant may incorporate by reference the registration statement or any reports required by paragraph (a) of this section. Section 240.12b-36 shall apply to financial statements filed as a part of, or incorporated by reference in, applications for registration filed pursuant to this section.

II. Form 10-K (§ 249.310) would be amended by adding to Item 4 thereof a new instruction 5 reading as follows:

5. In the case of an extractive enterprise, furnish such material information as to production, reserves, locations, development and the nature of the registrant's interest, as may be necessary to keep reasonably current the information previously reported in regard to such matters.

The foregoing action would be taken pursuant to the Securities Exchange Act of 1934, particularly sections 12 (b) and 23 (a) thereof.

All interested persons are invited to submit views and comments on the foregoing proposals in writing to the Securities and Exchange Commission, Washington 25, D. C., on or before April 10, 1957. Except where it is requested that such communications not be disclosed, they will be considered available for public inspection.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

MARCH 11, 1957.

[F. R. Doc. 57-2051; Filed, Mar. 18, 1957;
8:46 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Bureau Order 551, Amdt. 32]

FUNCTIONS RELATING TO SPECIFIC
LEGISLATION

DELEGATION OF AUTHORITY

Order 551, as amended, is further amended to add a new section under the heading Functions Relating to Specific Legislation to read as follows:

SEC. 364. *Authority under act approved August 27, 1954 (68 Stat. 868).* The taking of action with respect to those matters contained in the following sections in said act:

Section 9.
Section 12.
Section 22.
Section 26 (except the execution of patents).

W. BARTON GREENWOOD,
Acting Commissioner.

MARCH 8, 1957.

[F. R. Doc. 57-2044; Filed, Mar. 18, 1957;
8:45 a. m.]

MESCALERO INDIAN IRRIGATION PROJECT,
NEW MEXICONOTICE OF INTENTION TO IMPOSE ANNUAL
ASSESSMENT FOR WATER

Pursuant to section 3 and section 4 (a) of the Administrative Procedure Act of June 11, 1946 and acts approved August 1, 1914, and March 7, 1928, 60 Stat. 238, 38 Stat. 583, 45 Stat. 210, R. S. sec. 465; 5 U. S. C., 1952 ed.; secs. 1002 and 1003, 25 U. S. C. 1952 ed., 385, 387, 9 and by virtue of authority delegated by the Commissioner of Indian Affairs to the undersigned by order 551, amendment 1, approved June 5, 1951, 16 F. R. 3456-3457, notice is hereby given of intention to issue an order making an annual assessment of \$5.90 against each acre of land on the Mescalero Indian Reservation, New Mexico, to which water can be delivered from the irrigation project works, effective for the year 1957 and each year thereafter until further notice. The assessment shall be due and payable on or before March 1 of each year except that in cases of Indians farming their own lands who are unable to pay the assessment when due, water may be delivered to their land following certification by the Superintendent to the official in charge of the irrigation project that such Indian is financially unable to pay or that payment of assessment will be made from proceeds of crops by a given date, or will be paid from other designated sources as funds become available.

All interested persons are hereby given opportunity to submit their views, data or arguments concerning such proposed order in writing to Area Director, Gallup Area Office, Bureau of Indian Affairs, Gallup, New Mexico, within thirty (30)

days from the date of publication of this notice in the FEDERAL REGISTER.

T. B. HALL,
Acting Area Director.

[F. R. Doc. 57-2045; Filed, Mar. 18, 1957;
8:45 a. m.]

Bureau of Land Management

[Serial No. Idaho 08047]

IDAHO

NOTICE OF PROPOSED WITHDRAWAL AND
RESERVATION OF LANDS

MARCH 11, 1957.

The Atomic Energy Commission has filed an application, Serial No. 08047, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, General Mining laws, and Mineral Leasing laws. The applicant desires the land for use in connection with the National Reactor Testing Station.

For a period of thirty days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, P. O. Box 2237, Boise, Idaho.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

T. 3 N., R. 33 E.,
Secs. 1 to 30 inclusive;
Sec. 31, Part of NW¼.
T. 3 N., R. 34 E.,
Secs. 4 to 9 inclusive;
Secs. 16 to 21 inclusive;
Sec. 30, All;
Sec. 29, W½, W½E½.
T. 4 N., R. 33 E.,
Secs. 1 to 4 inclusive;
Secs. 9 to 16 inclusive;
Secs. 21 to 29 inclusive;
Secs. 33 to 36 inclusive.
T. 4 N., R. 34 E.,
Secs. 1 to 33 inclusive.
T. 5 N., R. 33 E.,
Secs. 1 to 4 inclusive;
Secs. 9 to 16 inclusive;
Secs. 21 to 28 inclusive;
Secs. 33 to 36 inclusive.
T. 5 N., R. 34 E.,
Secs. 1 to 36 inclusive.
T. 6 N., R. 33 E.,
Secs. 13 to 16 inclusive;
Secs. 20 to 29 inclusive;
Secs. 32 to 36 inclusive;
Sec. 4, Part of W½;
Sec. 9, Part of W½, SE¼;
Sec. 10, Part of S½;
Sec. 11, Part of S½;
Sec. 12, Part of S½.

T. 6 N., R. 34 E.,
Sec. 18, Part of;
Sec. 19, All;
Sec. 30, All;
Sec. 31, All;
Sec. 32, All;
Sec. 33, Part of W½.
T. 7 N., R. 32 E.,
Secs. 1 to 3 inclusive;
Secs. 10 to 15 inclusive.
T. 7 N., R. 33 E.,
Sec. 7, All;
Sec. 16, All;
Sec. 17, All;
Sec. 18, All;
Sec. 19, All;
Sec. 20, All;
Sec. 21, All;
Sec. 29, All;
Sec. 6, W½;
Sec. 28, W½, Part of NE¼;
Sec. 33, W½.
T. 8 N., R. 32 E.,
Sec. 13, S½;
Sec. 14, S½;
Sec. 15, S½;
Secs. 22 to 27 inclusive;
Secs. 34 to 36 inclusive.
T. 8 N., R. 33 E.,
Sec. 18, SW¼;
Sec. 19, W½;
Secs. 30 and 31, W½.
T. 7 N., R. 30 E.,
Secs. 1 to 3 inclusive;
Secs. 10 to 15 inclusive;
Secs. 34 to 36 inclusive.
T. 7 N., R. 31 E.,
Secs. 1 to 21 inclusive;
Secs. 30 and 31 inclusive.
T. 8 N., R. 30 E.,
Secs. 22 to 27 inclusive;
Secs. 34 to 36 inclusive.
T. 8 N., R. 31 E.,
Sec. 13, S½;
Secs. 19 to 36 inclusive.

J. R. PENNY,
State Supervisor.

[F. R. Doc. 57-2046; Filed, Mar. 18, 1957;
8:46 a. m.]

[Serial No. Idaho 08002]

IDAHO

ORDER PROVIDING FOR RESTORATION OF
PUBLIC LANDS

MARCH 8, 1957.

In an exchange of lands made in accordance with the terms and provisions of the Act of March 20, 1922 (42 Stat. 465), as amended by the act of February 28, 1925 (43 Stat. 1090) the following described lands have been reconveyed to the United States:

BOISE MERIDIAN, IDAHO

T. 50 N., R. 1 E.,
Sec. 19, Lots 3, 4.
T. 50 N., R. 1 W.,
Sec. 25, N½NE¼.

The areas described above total 184.76 acres of public lands. These lands are productive of a fine stand of poles and desirable species of forestry. The topography is rough and mountainous in character.

These lands are within the exterior limits of Coeur d'Alene National Forest

as established by proclamation of November 6, 1906, and the above-described lands are subject to the national forest withdrawal and are not subject to the provisions of the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-283) wherein, as amended granting a preference right of application to veterans of World War II and others.

Upon publication of this Order the lands described shall be subject to operation of public land laws relating to national forests subject to valid existing rights and provisions of existing withdrawals.

Inquiries and applications concerning the above lands shall be addressed to the Regional Forester, U. S. Forest Service, Federal Building, Missoula, Montana.

NOLAN F. KEIL,
Acting State Supervisor.

[F. R. Doc. 57-2047; Filed, Mar. 18, 1957;
8:46 a. m.]

[Serial No. Idaho 04561]

IDAHO

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

MARCH 11, 1957.

The State of Idaho, Department of Fish and Game, has filed an application, Serial No. Idaho 04561, for the withdrawal of the lands described below, from all forms of appropriation, in accordance with the terms and provisions of the Coordination Act of August 14, 1946 (60 Stat. 1080; 16 U. S. C. 661-666c). The applicant desires the land for production of migratory waterfowl and aquatic fur animals.

For a period of thirty days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, P. O. Box 2237, Boise, Idaho.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

T. 14 S., R. 44 E.,
Sec. 5, Lots 7, 8, 9;
Sec. 6, Lots 11, 12, 13, 14;
Sec. 7, Lots 9, 10, 11, 12, 13, 14, 15, 16, 17,
18, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 8, Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,
16, 17, 18, 19, 20;
Sec. 17, Lots 2, 3, 4, 5, 6;
Sec. 18, Lot 9;
Sec. 21, Lots 1, 2, 3, 4, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 22, Lots 1, 2, 3;
Sec. 26, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 35, Lots 3, 4.
T. 15 S., R. 44 E.,
Sec. 1, Lots 5, 6, 9, 10, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 6, Lots 1, 2, 3, 4, 5;
Sec. 12, Lots 2, 3, 6, 7, NE $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 13, Lots 2, 3, 6;
Sec. 14, Lot 1.

The total area includes 1,974.28 acres.

J. R. PENNY,
State Supervisor.

[F. R. Doc. 57-2048; Filed, Mar. 18, 1957;
8:46 a. m.]

CALIFORNIA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

MARCH 11, 1957.

The U. S. Fish and Wildlife Service has filed an application, Serial No. Sacramento 052888, for the withdrawal of the lands described below, from all forms of appropriation except mineral leasing under the mineral leasing laws and the disposal of materials under the Materials Act of July 31, 1947 (61 Stat. 681; 43 U. S. C. 1185). The management, use and disposal of the forest and range resources will continue under the administration of the Bureau of Land Management in accordance with applicable laws and regulations.

The applicant desires the land be reserved in public ownership to provide assistance to the State of California for the protection, development and management of the wildlife resources. The area is known as the King Peak Wildlife Area.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Room 801, California Fruit Building, Fourth and J Streets, Sacramento, California.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

HUMBOLDT BASE AND MERIDIAN

T. 3 S., R. 1 W.,
Sec. 17, S $\frac{1}{2}$;
Sec. 18, Lots 2 and 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 19, Lot 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 20, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Secs. 21, 22, 23, all;
Sec. 24, W $\frac{1}{2}$, SE $\frac{1}{4}$;
Secs. 25, 26, 27, 28, 29, all;
Sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 32, E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Secs. 33, 34, 35, all.
T. 4 S., R. 1 W.,
Secs. 1, 2, all;
Sec. 3, E $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 4, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 5, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 9, Lots 1 and 2;
Sec. 11, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 12, all;
Sec. 13, Lots 1-4, inclusive, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 24, Lot 1.

T. 3 S., R. 1 E.,
Sec. 30, Lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 31, Lots 1-26, inclusive.
T. 4 S., R. 1 E.,
Sec. 5, all;
Sec. 6, Lots 1, 3, 4, 5, 6, 9 and 10, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 7, Lots 2, 3, 6 and 7, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15, Lots 1, 2, 5 and 6, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 17, all;
Sec. 18, Lots 2 and 3, NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 20, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 21, Lots 1-8, inclusive, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 22, Lots 1-4, inclusive, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 25, Lot 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 26, Lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 27, Lots 1, 2, 3, 6, 7, 8, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 28, E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 34, Lots 1-4, inclusive, N $\frac{1}{2}$ NW $\frac{1}{4}$.

The area described contains 20,764.32 acres of public land in Humboldt County.

R. R. BEST,
State Supervisor.

[F. R. Doc. 57-2049; Filed, Mar. 18, 1957;
8:46 a. m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

C. F. BAU & CIE, K. G.

ORDER INDEFINITELY DENYING EXPORT PRIVILEGES

In the matter of C. F. BAU & CIE, K. G., 14/25 Hindenburg Street, Offenburg/BW, Western Germany; respondent.

The Agent-in-Charge of the Investigation Staff, having applied for an order indefinitely denying export privileges to C. F. Bau & Cie, K. G., of 14/25 Hindenburg Street, Offenburg, Western Germany, alleging that it has failed and refused to answer interrogatories duly propounded to it with respect to its intended disposition of 1,000 tons of borax, technical granular, which it ordered from a United States supplier and in connection with its specific written representations to its U. S. supplier of its intention to import said borax into the Federal Republic of Germany for processing;

And said application having been referred to the Compliance Commissioner who has reported (a) that trade information was reasonably accepted as evidence of the improbability that the Federal Republic of Germany would permit importation of so large a quantity of borax in this form, (b) that a formal interrogatory in the form contemplated in § 382.15 of the export regulations was duly served upon C. F. Bau & Cie, K. G. and notice given to it that failure to answer such interrogatory could be followed by denial of export privileges until such time as the answers are furnished and (d) that C. F. Bau & Cie, K. G. failed to make a reply that was respon-

sive to the interrogatories or that answered the questions propounded by the interrogatory;

And the Compliance Commissioner having recommended that this order be entered;

Now, upon receipt of the Compliance Commissioner's recommendation, after reviewing and considering the evidence submitted in support of the application and, having concluded (a) that, by failing and refusing to answer the specific questions propounded to it by the interrogatory, the respondent, C. F. Bau & Cie, K. G., has violated section 6 (a) of the Export Control Act of 1949, as amended, and § 381.5 of the regulations promulgated thereunder and (b) that this order is necessary and reasonable to protect the public interest and to achieve effective enforcement of the Export Control Act: *It is hereby ordered:*

(1) All outstanding validated export licenses held by or issued in the name of the respondent, C. F. Bau & Cie, K. G., or in which it appears or participates as purchaser, intermediate or ultimate consignee, or otherwise, are hereby revoked and shall be returned forthwith to the Bureau of Foreign Commerce for cancellation;

(2) The respondent, C. F. Bau & Cie, K. G., its directors, officers, partners, representatives, agents, and employees, are hereby denied all privileges of participating directly or indirectly in any manner, form or capacity in an exportation of any commodity or technical data from the United States to any foreign destination including Canada. Without limitation of the generality of the foregoing, participation in an exportation shall include and prohibit said respondent's and such other persons' and firms' participation (a) as a party or as a representative of a party to any validated export license application; (b) in the obtaining or using of any validated or general export license or other export control document; (c) in the receiving, ordering, buying, selling, using, or disposing in any foreign country of any commodities in whole or in part exported from the United States; and (d) in the financing, forwarding, transporting, or other servicing of exports from the United States;

(3) This denial of export privileges shall apply not only to the named respondent, but also to any person, firm, corporation, or business organization with which it may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of trade involving exports from the United States or services connected therewith;

(4) This order shall be effective forthwith and shall remain in effect until such time as respondent, C. F. Bau & Cie, K. G., shall respond to the interrogatories heretofore propounded to it or shall give adequate reasons to the Bureau of Foreign Commerce for its failure or refusal to respond; or unless amended or modified hereafter in accordance with Part (8) hereof;

(5) If within ten (10) days after receipt of this order, respondent C. F. Bau & Cie, K. G. has not responded to the interrogatories or given adequate

reasons to the Bureau of Foreign Commerce for its failure or refusal to respond and has not made a motion to the Compliance Commissioner to vacate or modify this denial order in accordance with the provisions of Part (8) hereof, this order shall be published in the FEDERAL REGISTER.

(6) No person, firm, corporation, or other business organization, within the United States or elsewhere, and whether or not engaged in trade relating to exports from the United States, without prior disclosure of the fact to, and specific authorization from the Bureau of Foreign Commerce, shall directly or indirectly in any manner, form, or capacity (a) apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation of commodities from the United States, or (b) order, receive, buy, use, dispose of, finance, transport, forward, or otherwise service or participate in an exportation from the United States, or in a reexportation of any commodity exported from the United States, with respect to which any of the persons or companies within the scope of paragraphs (2) and (3) hereinabove have any interest or participation of any kind or nature, direct or indirect;

(7) A certified copy of this order shall be served upon the named respondent by registered mail or hand delivery;

(8) In accordance with the provisions of § 382.11 (c) of the export control regulations, the respondent may move the Compliance Commissioner at any time prior to the entry of a final order to vacate or modify this denial order by filing with him an appropriate motion therefor, supported by evidence or answers to the interrogatories heretofore propounded, and it may request an oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner at Washington, D. C., at the earliest possible date.

Dated: December 18, 1956.

JOHN C. BORTON,
Director,
Office of Export Supply.

[F. R. Doc. 57-2056; Filed, Mar. 18, 1957;
8:47 a. m.]

Federal Maritime Board

[Docket No. 816]

GENERAL PRACTICES, CHARGES, SERVICES,
DEFINITIONS, AND AGREEMENTS OF TER-
MINAL OPERATORS AT ATLANTIC AND
GULF PORTS

NOTICE OF INVESTIGATION AND OF HEARING
On March 11, 1957, the Federal Maritime Board entered the following order:

It appearing that pursuant to section 1 of the Shipping Act, 1916, as amended, any person operating a marine terminal which provides a link service with a common carrier by water is an "other person subject to this act" insofar as such link service includes the furnishing of wharfage, dock, warehouse, or other terminal facility; the term "person" as used

herein includes, but without limitation, individuals, corporations, partnerships, associations, steamship lines, railroads, and state, municipal and other governmental entities;

It further appearing that parties named in Appendix A are carrying on the business of furnishing wharfage, dock, warehouse or other terminal facilities in connection with common carriers by water, at ports located on the United States Atlantic and Gulf Coasts, and are therefore subject to the Shipping Act, 1916, as amended; and

It further appearing that certain charges, rules, regulations or practices of such aforesaid terminal operators pertaining to Dockage, Free Time, Wharf Demurrage, Wharfage, Handling, or other accessorial services may constitute unjust or unreasonable practices within the meaning of section 17 of the Shipping Act, 1916, as amended (46 U. S. C. 816) or may result in violation of section 16 First (46 U. S. C. 815) of said act; and

It further appearing that the present tariff terminology covering aforesaid terminal services offered and performed by said terminal operators vary in content, form definition and nomenclature to an extent which may cause doubt and confusion to users of these services and therefore may result in unjust or unreasonable regulations or practices within the meaning of section 17; and

It further appearing that rail carriers shown as participants in Southern Freight Tariff Bureau Freight Tariff S-326-N, Agent C. A. Spaninger's ICC No. 1511, and various other persons with whom the said rail carriers have arrangements or contracts or leases may have entered into agreements with each other and with said various other persons covering the establishment of terminal charges, rules, regulations and practices at Atlantic and Gulf ports which are subject to section 15 of the Shipping Act, 1916, but which were not filed with the Federal Maritime Board pursuant to the requirements of section 15 of the Shipping Act, 1916 (46 U. S. C. 814);

It is ordered, That the Board, on its own motion enter upon a proceeding of inquiry and investigation pursuant to section 22 of the Shipping Act, 1916, as amended (46 U. S. C. 821), to determine

(a) Whether the charges, regulations and practices of terminal operators at U. S. Atlantic and Gulf ports are just and reasonable within the meaning of section 17 of the Shipping Act, 1916, as amended;

(b) Whether the charges, regulations and practices of terminal operators at U. S. Atlantic and Gulf ports are in violation of section 16, First, of the Shipping Act, 1916, as amended; and

(c) Whether rail carriers participating in Southern Freight Tariff Bureau Freight Tariff S-326-N, Agent C. A. Spaninger's I. C. C. No. 1511 governing Demurrage, Handling, Storage, Weighing and Wharfage at Virginia, South Atlantic, Florida and Gulf Ports (other than New Orleans, La.) have entered into and carried out agreements with each other and with other persons covering the establishment of terminal charges, rules, regulations or practices

at such ports in violation of section 15 of the Shipping Act, 1916, as amended;

It is further ordered, That pursuant to sections 16 and 17 of the Shipping Act, 1916, as amended, section 19 of the Merchant Marine Act, 1920, section 204 of the Merchant Marine Act, 1936 and section 4 of the Administrative Procedure Act, the Board institute a rule-making proceeding for the purpose of prescribing uniform definitions of terminal services offered by all persons carrying on the business of furnishing wharfage, dock, warehouse or other terminal facilities in connection with a common carrier by water at U. S. Atlantic and Gulf ports; and

It is further ordered, That all persons carrying on the business of furnishing wharfage, dock, warehouse or other terminal facilities in connection with a common carrier by water at any port located on the Atlantic or Gulf Coast of the United States be, and they are hereby, named respondents in this proceeding; that copies of this order be served upon each of them (listed in Appendix A), and that notice of this proceeding be given to all other persons and the general public by publishing this order in the FEDERAL REGISTER; and

It is further ordered, That this proceeding be assigned for hearing before an examiner of the Hearing Examiners Office at a date and place to be fixed by the Chief Examiner.

APPENDIX A

Alabama State Docks and Terminals.
Alabama, Tennessee and Northern R. R. Co.
American Export Lines, Inc.
American President Lines, Ltd.
American Stevedores, Inc.
American Sugar Refining Co., The
Anchor Terminal Service Co., Inc.
Apalachicola, Northern R. R. Co.
Associated Operating Co., The
Atlantic and Danville Railway Co.
Atlantic and East Carolina Railway Co.
Atlantic & Saint Andrews Bay Railway Co.
Atlantic Coast Line R. R. Co.
Atlantic Stevedoring Co., Inc.
Atlantic Terminals.
Baltimore & Ohio Railway.
Bay Ridge Operating Co., Inc.
Beard's Erie Basin, Inc.
Beaufort and Morehead R. R. Co.
Board of Commissioners, City of Jersey City, The
Board of Commissioners, Port of Lake Charles.
Board of Commissioners, Port of New Orleans.
Board of Commissioners, Port of Palm Beach District.
Board of Navigation and Canal Commissioners of the Brownsville Navigation District.
Board of Trustees of the Galveston Wharves.
Brooklyn Eastern District Terminal.
Broward County Port Authority, Port Everglades, Fla.
Bull-Insular Line, Inc.
Canton R. R. Co.
Cambels Trucking Co., Inc.
Central of Georgia Railway Co.
Charleston & Western Carolina Railway Co.
Chesapeake and Ohio Railway Co., The.
Chester Tidewater Terminal, Inc.
Cilco Terminal Co., Inc.
City Commission of the City of Miami, The.
City Compress & Warehouse Co.
City of Jacksonville.
City of Tampa.

City of Trenton, The.
Clark and Son, John T.
Commercial Stevedoring Co., Inc.
Commonwealth of Massachusetts, Port of Boston Commission.
Compagnie Generale Transatlantique.
Connecticut Terminal Co., Inc.
Cunard Steam-Ship Company, Limited, The.
Delaware River Terminal & Warehouse Co.
Elizabeth New Jersey City Council.
Florida East Coast Railway Co.
Flota Mercante Grancolombiana, S. A., Transportadora Grancolombiana, Ltda.
Gallagher & Sons, E. A.
General Marine Terminals, Inc.
Georgia Ports Authority.
Georgia Southern & Florida Railway Co.
Southern Railway System.
Grace Line Inc.
Gulf Atlantic Warehouse Co.
Gulf Mobile and Ohio R. R. Co.
Gulf port Port Commission.
Heide Warehouse Co.
Illinois Central R. R. Co.
Imperial Tobacco Co., Ltd., The.
Independent Terminals, Inc.
India Street Lumber Terminal, Inc.
International Elevating Co.
International Terminal Operating Co., Inc.
Jay Street Connecting Railroad, The.
Kansas City Southern Railway Co.
Lambert's Point Docks, Inc.
Louisiana Southern Railway Co., Southern Railway System.
Louisville and Nashville R. R. Co.
Luckenbach Steamship Co., Inc., Terminals Division.
Lumber Exchange Terminal, Inc.
Maher Stevedoring Co., Inc.
Maine Port Authority.
Manchester Terminals Corp.
Marra Bros., Inc.
Maude/James Inc.
McGrath Corporation, John W.
Merchants' Warehouse Co.
Mersey & Hudson Wharfage Corp.
Moore-McCormack Lines, Inc.
Mystic Terminal Co., The.
National Cargo Bureau, Inc.
Navigation and Canal Commissioners, Harris County Houston Ship Channel Navigation District.
Nederlandsch-Amerikaansche Stoomvaart Maatschappij "Holland-Amerika Lyn" (Holland America Line).
New Haven Terminals, Inc.
New York Central R. R. Co., The
New York Harbor Terminal Corp.
Norfolk & Western Railway.
Norfolk Southern Railway Co.
North Carolina State Port Authority.
Norwegian America Line Agency, Inc.
Nueces Country Navigation Commissioners, Port of Corpus Christi.
Oakdene Compress & Warehouse Co.
Orange Wharf and Dock Commission, The.
Orr & Son, John J.
Packet Shipping Corp.
Pennsylvania Railroad, The.
Philadelphia Piers, Inc.
Pioneer Terminal Corp.
Pittsburgh Metallurgical Co., Inc.
Pittston Stevedoring Corp.
Port Commission, Port of Beaumont.
Portland Terminal Co.
Port of New York Authority, The.
Port Utilities Commission of Charleston, S. C., The.
Reading Co.
Richmond Fredericksburg & Potomac R. R. Co.
Richmond Waterfront Terminals, Inc.
Rupert Terminals Corp.
Savannah & Atlanta Railway Co.
Savannah State Docks R. R. Co.
Seaboard Air Line Railway Co.
Seaboard Contracting Co., Inc.
Sealand Dock & Terminal Corp.
Seatrains Lines, Inc.
Shipyard River Terminal Co.

Sottnek Company, Inc., Jules S.
Sottnek Terminal Corp.
South Carolina State Ports Authority.
South Jersey Port Commission.
Southern Railway Co., Southern Railway System.
Southern Tidewater Terminal.
Southgate Storage Co.
Sprunt Co., The.
St. Johns River Terminal Co.
St. Louis-San Francisco Railway Co.
Standard Terminals, Inc.
State Division of Harbors and Rivers, The State of Rhode Island.
States Terminal Corp.
Strachan Shipping Co., Inc.
Suwannee Trainferry Lines, Inc.
Tampa Stevedoring Co., Inc.
Texas and New Orleans R. R. Co. (Southern Pacific Lines).
Texas City Terminal Railway Co.
Texas Pacific-Missouri Pacific Terminal R. R. of New Orleans.
Transoceanic Terminal Corp.
Turner & Blanchard, Inc.
United Port Service Company, The.
United States Lines.
Universal Terminal & Stevedoring Corp.
Ward-Garcia, S. A.
Waterman Steamship Corp.
West Coast Line, Inc.
Western Maryland Railway.
West India Fruit & Steamship Co., Inc.
West Palm Beach Terminal Co.
Whitehall Terminal Corp.
Wiggin Terminals, Inc.
Wilmington Marine Terminal, Board of Harbor Commissioners.
Wilmington Terminal Warehouse Co.

Pursuant to the above order, notice is hereby given that a public hearing in this proceeding will be held before an examiner of the Board's Hearing Examiners' Office at a time and place to be hereafter determined and announced by the Chief Examiner. The hearing will be conducted in accordance with the Board's rules of practice and procedure, and a recommended decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies), having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Board on or before April 30, 1957, and should file petitions for leave to intervene in accordance with Rule 5 (n) of said rules of practice and procedure.

Dated: March 14, 1957.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-2082; Filed, Mar. 18, 1957; 8:51 a. m.]

[Docket No. 815]

COMMON CARRIERS BY WATER; STATUS OF EXPRESS COMPANIES, TRUCK LINES AND OTHER NON-VESSEL CARRIERS

NOTICE OF INVESTIGATION AND OF HEARING

On March 11, 1957, the Federal Maritime Board entered the following order:

It appearing that there have been filed with the Federal Maritime Board, various tariffs issued by motor truck companies, freight forwarders, and express companies, as common carriers by water,

or tariffs in which the said classes are shown as participating common carriers by water, which tariffs name rates, fares, charges, classifications, rules, practices and regulations from, to or between U. S. ports on the one hand, and U. S. Districts, Territories or Possessions on the other, also from, to or between U. S. ports on the one hand and foreign countries on the other;

It further appearing that certain of the above motor carriers, freight forwarders and express companies have filed agreements with the Board under section 15 of the Shipping Act, 1916, as amended, as common carriers by water;

It further appearing that such motor truck companies, freight forwarders, and express companies, by their published freight tariffs and otherwise, hold themselves out to transport for the public by water, but do not own, operate or control the means by which such transportation is effected;

It further appearing, that the Board is of the opinion that an investigation should be conducted into the operations of the said classes of carriers to determine their status under the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended;

It is ordered, That the Board enter upon a hearing to determine the classification and status of the aforesaid classes of carriers under the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended;

It is further ordered, That the Board investigate the lawfulness of all agreements filed under section 15 of the Shipping Act, 1916, as amended, in which any of the aforesaid classes of carriers are parties thereto; and

It is further ordered, That copies of this order shall be forthwith served upon all persons, corporations, agents and companies listed in Appendix A, attached hereto, and the said parties be, and they are hereby, made respondents in this proceeding; that said parties be duly notified of the time and place of the hearing herein ordered, and that notice of such hearing be published in the FEDERAL REGISTER.

APPENDIX A

Alaska Steamship Co.
American President Lines, Ltd.
Allied Pittsburg Warehouse & Van Co., Inc.
Allied Van Lines, Inc.
Paul Arpin Van Lines, Inc.
Atlas Van Lines, Inc.
Atlas Van Service, Inc.
Bekins Household Shipping Co.
Bekins Moving & Storage Co.
Columbia Van Lines, Inc.
Dean Van Lines.
Delcher Brothers Storage Co.
Nippon Express Company, Ltd.
North American Van Lines, Inc.
Pacific Freight Corp.
Porto Rican Express Co.
Pyramid Van Lines, Inc.
Railway Express Agency.
Republic Van & Storage Co., Inc.
Suddath Moving & Storage Co., Inc.
Pan American Van Lines, Inc.
The McKee Co. d. b. a. Alaska Parcel Service and Ocean Forwarders.
The Oceanic Steamship Co.
Garrison Fast Freight, Inc.

No. 53—7

Global Van Lines.
Howard Van Lines, Inc.
Inter-Island Steam Navigation Co., Ltd.
John F. Ivory Storage Co.
Lyon Van Lines, Inc.
Martin Van Lines, Inc.
Matson Navigation Co.
Movers & Warehousemen's Association of America, Inc.
National Carloading Corp.
National Van Lines, Inc.
Trans-Ocean Van Service, Inc.
United States Van Lines, Inc.
United Van Lines, Inc.
Universal Carloading & Distributing Co., Inc.
Von Der Ahe Van Lines, Inc.
Weaver Bros., Inc.
Coastwise Line.
Puerto Rico Freight Delivery Co.
Valencia Baxt Express, Inc.
Security Storage & Van Company, Inc.
Trailer Marine Transportation, Inc.

Pursuant to the above order, notice is hereby given that a public hearing in this proceeding will be held before an examiner of the Board's Hearing Examiners' Office at a time and place to be hereafter determined and announced by the Chief Examiner. The hearing will be conducted in accordance with the Board's rules of practice and procedure, and a recommended decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies), having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Board on or before April 30, 1957, and should file petitions for leave to intervene in accordance with Rule 5 (n) of said rules of practice and procedure.

Dated: March 14, 1957.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-2083; Filed, Mar. 18, 1957;
8:51 a. m.]

Office of the Secretary

ALEXANDER D. THOMSON

REPORT OF APPOINTMENT AND STATEMENT OF FINANCIAL INTERESTS

Report of appointment and statement of financial interests required by section 710 (b) (6) of the Defense Production Act of 1950, as amended.

Report of Appointment

1. Name of appointee: Alexander D. Thomson.
2. Employing agency: Department of Commerce, Defense Air Transportation Administration.
3. Date of appointment: February 28, 1957.
4. Title of position: Consultant.
5. Name of private employer: T. O. Ranch Company.

CARLTON HAYWARD,
Director of Personnel.

MARCH 11, 1957.

Statement of Financial Interests

6. Names of:

- a. Any corporations of which the appointee is an officer or director or within 60 days preceding appointment has been an officer or director, or in which the appointee owns or within 60 days preceding appointment has owned any stocks, bonds, or other financial interests;
- b. Any partnerships in which the appointee is, or within 60 days preceding appointment was, a partner; and
- c. Any other businesses in which the appointee owns, or within 60 days preceding appointment has owned, any similar interest.

Allied Chemical & Dye Corporation.
Aluminum Company of America.
American Natural Gas Co.
American Radiator & Standard Sanitary Corp.
Armstrong Cork Co.
Bethlehem Steel Corp.
Cleveland Electric Illuminating Co.
The Consolidated Mining & Smelting Co. of Canada.
Federated Department Stores, Inc.
Fibreboard Paper Products Corp.
Fireman's Fund Insurance Co.
First National City Bank of New York.
General Electric Co.
General Motors Corp.
W. T. Grant Co.
Kelly-How-Thomson Co.
Kennecott Copper Corp.
Johns Manville Corp.
Minnesota Mining & Manufacturing Co.
The Ohio Oil Co.
Phelps Dodge Corp.
Phillips Petroleum Co.
Rheem Manufacturing Co.
St. Joseph Lead Co.
Sears, Roebuck & Co.
Socony Mobil Oil Co., Inc.
Southern California Edison Co.
Standard Oil Company of New Jersey.
T. O. Ranch Co.
Texas Co.
Union Carbide & Carbon Corp.
United States Steel Corp.
Westinghouse Electric Corp.
F. W. Woolworth Co.
Castle Pines Development Co.
Commonwealth Oil.
Continental Air Lines.
Cyclo Manufacturing Co.
Denver Club.
Denver Country Club.
Frontier Oil.
Gamma Corp.
Lisbon Valley Uranium Co.
Oil Tool Research & Development Co.
Rocky Mountain Corp.
Winter Park Recreational Association.
Butter-Pak, Inc.

Interest in oil and gas leases in the following States: Colorado, Illinois, Indiana, Kentucky, Nebraska, Oklahoma, Texas, Utah, Wyoming.

Dated: March 6, 1957.

ALEXANDER D. THOMSON.

[F. R. Doc. 57-2073; Filed, Mar. 18, 1957;
8:50 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards

Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods for certificates issued under general learner regulations (§§ 522.1 to 522.12) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Cigar Industry Learner Regulations (29 CFR 522.80 to 522.85, as amended March 1, 1956, 21 F. R. 629).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers as learners for normal labor turnover purposes:

General Cigar Co., Inc., Division and Brook Streets, Kingston, Pa.; effective 3-1-57 to 2-28-58.

General Cigar Co., Inc., Johnstone and Neville Streets, Perth Amboy, N. J.; effective 3-1-57 to 2-28-58.

La Primadora Cigar Corp., East Avenue at Turner Street, Clearwater, Fla.; effective 3-1-57 to 2-28-58.

M. Trelles & Co., Inc., 701 South Peters Street, New Orleans, La.; effective 3-1-57 to 2-28-58.

The following learner certificate was issued for plant expansion purposes. The number of learners authorized is indicated.

General Cigar Co., Inc., Division and Brook Streets, Kingston, Pa.; effective 3-11-57 to 9-10-57; 50 learners.

Glove Industry Learner Regulations (29 CFR 522.60 to 522.65, as amended March 1, 1956, 21 F. R. 581).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers engaged in authorized learner occupations for normal labor turnover purposes.

James Churchill Glove Co., Centralia, Wash.; effective 3-1-57 to 2-28-58 (work gloves).

Riegel Textile Corp., Warlong Division, Conover, N. C.; effective 3-1-57 to 2-28-58 (work gloves).

Wells Lamont Corp., Beardstown, Ill.; effective 3-1-57 to 2-28-58 (leather work gloves).

Wells Lamont Corp., 516 East Main Street, Brownsville, Tenn.; effective 3-1-57 to 2-28-58 (fabric gloves).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of machine stitchers for normal labor turnover purposes.

The Boss Manufacturing Co., 107 North Boss Street, Kewanee, Ill.; effective 3-1-57 to 2-28-58 (work gloves).

The Boss Manufacturing Co., Gregory and Harrington Streets, Cisco, Tex.; effective 3-1-57 to 2-28-58 (work gloves).

Fairfield Glove Co., Bonaparte, Iowa; effective 3-1-57 to 2-28-58 (gloves and mittens).
Good Luck Glove Co., Metropolis, Ill.; effective 3-10-57 to 3-9-58 (work gloves).
Riegel Textile Corp., Brundage, Ala.; effective 3-1-57 to 2-28-58 (work gloves).

The following learner certificates were issued for normal labor turnover purposes. The number of learners authorized is indicated.

N. Star Glove Co., Inc., 2317 Pacific Avenue, Tacoma, Wash.; effective 3-1-57 to 2-28-58; eight learners (cotton flannel and leather lined gloves).

Wm. E. Seal & Co., East North Street, Millersburg, Pa.; effective 3-1-57 to 2-28-58; two learners (work gloves).

Standard Glove Co. of New Jersey, 109 Frelinghuysen Avenue, Newark, N. J.; effective 3-1-57 to 2-28-58; five learners (work gloves).

Brookville Glove Manufacturing Co., Inc., Western Avenue, Brookville, Pa.; effective 3-1-57 to 2-28-58; 10 learners (cotton work gloves).

Fairfield Glove Co., 603 West Stone, Fairfield, Iowa; effective 3-1-57 to 2-28-58; 10 learners (gloves and mittens, work fabric).

Galena Glove & Mitten Co., 430 Garfield Avenue, Dubuque, Iowa; effective 3-1-57 to 2-28-58; 10 learners (work gloves).

Jomac Products, Inc., 1624 East Winona Avenue, Warsaw, Ind.; effective 3-7-57 to 3-6-58; 10 learners (work gloves).

Tex-Sun Glove Co., 321 South 14th Street, Corsicana, Tex.; effective 3-1-57 to 2-28-58; 10 learners (work gloves).

Tex-Sun Glove Co., Fairfield, Tex.; effective 3-1-57 to 2-28-58; 10 learners (work gloves).

The following learner certificate was issued for plant expansion purposes. The number of learners authorized is indicated.

Wells Lamont Corp., Hugo, Okla.; effective 3-1-57 to 8-31-57; 10 learners (work gloves).

Independent Telephone Industry Learner Regulations (29 CFR 522.70 to 522.74, as amended March 1, 1956, 21 F. R. 581).

Fort Kent Telephone Co., Fort Kent, Maine; effective 3-1-57 to 2-28-58.

Shoe Industry Learner Regulations (29 CFR 522.50 to 522.55, as amended March 1, 1956, 21 F. R. 1195).

The following learner certificates were issued, effective March 1, 1957, and expiring November 30, 1957, authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes.

Allegro Shoe Corp., South Ann Street, Little Falls, N. Y.

L. E. Beaudin Shoe Co., Inc., Factory Street, Hanover, Pa.

Bedford Shoe Co., Carlisle, Pa.

Billing Shoe Co., 1500 Main Street, Peckville, Pa.

Brown Shoe Co., Piggott, Ark.

Brown Shoe Co., Pocahontas, Ark.

Brown Shoe Co., Pittsfield, Ill.

Brown Shoe Co., Salem, Ill.

Brown Shoe Co., Boonsville, Miss.

Brown Shoe Co., Dixon, Mo.

Brown Shoe Co., Dyer, Tenn.

Brown Shoe Co., Savannah, Tenn.

Faith Shoe Co., Inc., 25-43 Beekman Street, Wilkes-Barre, Pa.

Fashion-Bilt Shoe Co., Pontiac, Ill.

Gettysburg Shoe Co., Dillsburg Division, Dillsburg, Pa.

Golo of Dunmore, Golo Park, Dunmore, Pa.

International Shoe Co., Batesville Factory, Batesville, Ark.

International Shoe Co., Springfield Factory, Springfield, Ill.

International Shoe Co., Eldon, Mo.

International Shoe Co., Fifth Street Pre Welt Plant, Fulton, Mo.

International Shoe Co., Kirksville Factory, Kirksville, Mo.

International Shoe Co., Marshall Factory, Marshall, Mo.

International Shoe Co., Kiefner Factory, Perryville, Mo.

International Shoe Co., Salem Factory, Salem, Mo.

International Shoe Co., Washington, Mo.

International Shoe Co., West Plains Factory, West Plains, Mo.

International Shoe Co., Windsor Factory, Windsor, Mo.

H. Jacob & Sons, Inc., Maple Avenue and Commerce Streets, Hanover, Pa.

Johnson-Baile Shoe Co., Millersburg, Pa.

J. Landis Shoe Co., Palmyra, Pa.

Loree Footwear Corp., Rossiter, Indiana Co., Pa.

Milton Shoe Manufacturing Co., Inc., 700 Hepburn Street, Milton, Pa.

Moran Shoe Co., Carlisle, Ill.

Northern Shoe Co., Pulaski, Wis.

Orlone Shoe Co., 419 East Oliver Street, Baltimore, Md.

Perry-Norvell Co., Huntington, W. Va.

Rex Shoe Co., Inc., 1950 Wyoming Avenue, Exeter Borough, Pa.

Savoy Shoe Co., Inc., West High Street, Elizabethtown, Pa.

Sport Specialty Shoemakers, Inc., Unit No. 1, Chaffee, Mo.

H. O. Toor Shoe Corp., Emmitsburg, Md.

Vocational Footwear, Inc., Lutesville, Mo.

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective dates are indicated.

Allegro Shoe Corp., Church Street, St. Johnsville, N. Y.; effective 3-15-57 to 11-30-57.

Altoona Shoe Co., Inc., Schellsburg Div., Schellsburg, Pa.; effective 3-1-57 to 2-28-58.

Barnold Shoes, Inc., 12th and Wood Streets, Philadelphia, Pa.; effective 3-1-57 to 1-30-58.

Diane Footwear, Inc., 476 Blackman Street, Wilkes-Barre, Pa.; effective 3-1-57 to 1-30-58.

Farmington Shoe Co., Division of Breed Sandal Co., Inc., Farmington, Maine; effective 3-5-57 to 1-30-58.

Gettysburg Shoe Co., R. D. 2, Cumberland Township, Gettysburg, Pa.; effective 3-1-57 to 9-30-57.

Moose River Shoe Co., Inc., 417 North Main Street, Old Town, Maine; effective 3-1-57 to 1-30-58.

Penn Footwear Co., Line and Grove Streets, Nanticoke, Pa.; effective 3-19-57 to 11-30-57.

Robinson Manufacturing Co., Outer W. Main, Robinson, Ill.; effective 3-11-57 to 1-30-58.

Town & Country Shoes, Inc., 110 North Missouri, Sedalia, Mo.; effective 3-7-57 to 1-30-58.

Town & Country Shoes, Inc., Slater, Mo.; effective 3-7-57 to 1-30-58.

Town & Country Shoes, Inc., Warrensburg, Mo.; effective 3-7-57 to 1-30-58.

Town & Country Shoes, Inc., Odessa, Mo.; effective 3-7-57 to 1-30-58.

A. Werman & Sons, Inc., 18 Thames Street, Norwich, Conn.; effective 3-1-57 to 1-30-58.

The following learner certificates were issued and except as otherwise indicated authorize the employment of 10 learners for normal labor turnover purposes. The effective dates are indicated.

Clover Shoe Manufacturing Co., Inc., Route 130, Burlington, N. J.; effective 3-6-57 to 1-30-58.

Felt Slipper Co., Inc., 614-618 West 131st Street, New York 27, N. Y.; effective 3-1-57 to 11-30-57; five learners.

Lazar's of Santa Fe, 228 Don Gaspar, Santa Fe, N. Mex.; effective 3-1-57 to 11-30-57.

MacGregor Sport Products, Inc., Athletic Shoe Division, Findlay and John Streets, Cincinnati, Ohio; effective 3-1-57 to 11-30-57.

Madys's, Inc., 42 East College, San Angelo, Tex.; effective 3-1-57 to 11-30-57.

Pacific Shoe Co., Pacific, Mo.; effective 3-1-57 to 11-30-57.

Reider Shoe Manufacturing Co., Inc., 145-155 West Main Street, Schuylkill Haven, Pa.; effective 3-7-57 to 1-30-58.

Swan Shoe Co., Inc., 3001 East Madison Street, Baltimore, Md.; effective 3-1-57 to 11-30-57.

Taos Leathercrafts, Taos, N. Mex.; effective 3-1-57 to 11-30-57; five learners.

The following learner certificates were issued for plant expansion purposes. The number of learners authorized and the effective dates are indicated.

Sham-O-Kin Shoe Corp., Franklin Street, Shamokin, Pa.; effective 3-20-57 to 9-19-57; 30 learners.

Taos Leathercrafts, Taos, N. Mex.; effective 3-1-57 to 8-31-57; five learners.

Apparel Industry Learner Regulations (29 CFR 522.20 to 522.24, as amended March 1, 1956, 21 F. R. 1349).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Abetta Sportswear Inc., Page Mill, New Bedford, Mass.; effective 3-7-57 to 11-30-57 (women's rayon dresses).

Ball Bra Manufacturing Co., Inc., 2445 Bedford Street, Johnstown, Pa.; effective 3-12-57 to 11-30-57 (brassieres).

Belmill Manufacturing Co., 457 Perry Street, Marseilles, Ill.; effective 3-7-57 to 11-30-57 (jackets).

Glenn Berry Manufacturers, Inc., 307 Ill., Oswego, Kans.; effective 3-5-57 to 11-30-57 (boys' dungarees).

Biltmore Manufacturing Co., Asheville, N. C.; effective 3-11-57 to 11-30-57 (women's sportswear).

Claire Frock Co., Inc., East Main Street, Thurmont, Md.; effective 3-11-57 to 11-30-57 (cotton dresses).

Cooper Sportswear Manufacturing Co., Inc., 310 Sherman Avenue, Newark 5, N. J.; effective 3-8-57 to 11-30-57 (cloth jackets and other outerwear).

Grisfield Shirt & Pajama Co., Princess Anne, Md.; effective 3-25-57 to 11-30-57 (boys' shirts).

Dublin Garment Co., Dublin, Ga.; effective 3-1-57 to 11-30-57 (sport shirts).

M. Fine & Sons Manufacturing Co., Inc., Bedford, Ind.; effective 3-8-57 to 11-30-57 (cotton work pants).

Glen of Michigan, Division of Rhea Manufacturing Co., 77 Hancock Street, Manistee, Mich.; effective 3-18-57 to 11-30-57; learners may not be employed at special minimum wage rates in the production of separate skirts (dresses, blouses, etc.).

Kahn Manufacturing Co., Inc., 150 North Royal Street, Mobile, Ala.; effective 4-1-57 to 3-31-58 (men's and boys' trousers).

Little Star Frocks, Walnut and Orchard Streets, Bridgeton, N. J.; effective 3-11-57 to 11-30-57 children's dresses).

Major Shirt Corp., 1106 Cunniss Street, Freeland, Pa.; effective 3-8-57 to 11-30-57 (men's and boys' sport jackets).

Manhattan Shirt Co., Port Embarkation, Port Terminal, North Charleston, S. C.; effective 3-11-57 to 11-30-57 (men's dress shirts).

Manhattan Shirt Co., Poplar Hill Avenue and Calvert Street, 416 East Main Street, Salisbury, Md.; effective 3-1-57 to 11-30-57 (dress shirts).

Manhattan Shirt Co., 29 Hoffman Street, Kingston, N. Y.; effective 3-1-57 to 11-30-57 (men's pajamas).

Manhattan Shirt Co., U. S. Highway, By Pass Nos. 29 and 70, Lexington, N. C.; effective 3-1-57 to 11-30-57 (sport shirts).

Manhattan Shirt Co., 21 Academy Street, Middletown, N. Y.; effective 3-1-57 to 11-30-57 (sport shirts).

Manhattan Shirt Co., 717 Capouse Avenue, Scranton, Pa.; 3-1-57 to 11-30-57 (sport shirts).

The Manhattan Shirt Co., Market and Spruce Streets and 207 River Street, Paterson, N. J.; effective 3-1-57 to 11-30-57 (ladies' dress shirts).

Mountain Top Co., 220 South Church Street, Hendersonville, N. C.; effective 3-7-57 to 11-30-57 (missy and children's playwear).

New England Pants Co., 131 Ash Street, Willimantic, Conn.; effective 3-8-57 to 11-30-57 (men's and boys' pants).

Peerless Mills, 516 Iron Street, Leighton, Pa.; effective 3-11-57 to 3-10-58 (ladies' dresses).

Phillips-Jones Factory, Brinkley, Ark.; effective 3-27-57 to 11-30-57 (dress shirts).

Publix Shirt Corp., Huntingdon, Tenn.; effective 3-11-57 to 11-30-57 (sport shirts).

Reidbord Bros. Co., Gulland-Clark Building, Elkins, W. Va.; effective 3-7-57 to 3-6-58 (men's work trousers and shirts).

Riviere Sportswear Co., 117 North Second Street, Lacrosse, Wis.; effective 3-7-57 to 11-30-57 (women's dresses).

Sally Blouses & Sportswear Manufacturing Co., 648 South Main Street, Old Forge, Pa.; effective 3-11-57 to 3-10-58 (ladies' blouses).

Skyland Textile Co., Sylva, N. C.; effective 3-8-57 to 11-30-57 (children's and infants' outerwear).

Skyland Textile Co., Morganton, N. C.; effective 3-8-57 to 11-30-57 (children's and infants' outerwear).

Snelbaker Manufacturing Co., 17-19 East Simpson Street, Mechanicsburg, Pa.; effective 3-15-57 to 11-30-57 (work shirts and pants).

Solomon Bros. Co., Thomasville, Ala.; effective 3-15-57 to 11-30-57 (sportswear).

Spartans Manufacturing Co., Inc., Dunlap, Tenn.; effective 3-5-57 to 11-30-57 (sport shirts).

Square Apparel Co., 181 Darling Street, Wilkes-Barre, Pa.; effective 3-8-57 to 11-30-57 (women's blouses and dresses).

Levi Strauss & Co., 115 Terraine Street, San Jose, Calif.; effective 3-12-57 to 11-30-57 (men's and boys' denim pants).

States Nitewear Manufacturing Co., Inc., Healy and Bates Streets, New Bedford, Mass.; effective 3-7-57 to 11-30-57 (cotton nightgowns and pajamas).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and number of learners authorized are indicated.

Bobanek Corp., 111 Garrison Avenue, Fort Smith, Ark.; effective 3-11-57 to 11-30-57; 10 learners (men's and boys' shirts).

Clayton Garment Co., Inc., Clayton, Ala.; effective 3-8-57 to 11-30-57; 10 learners (men's sport shirts).

Goodman Manufacturing Co., 131 South Poplar Street, Shamokin, Pa.; effective 3-9-57 to 11-30-57; 5 learners. Learners may not be employed at special minimum wage rates in the production of separate skirts (women's sportswear).

Iva Manufacturing Co., Inc., Iva, S. C.; effective 3-23-57 to 11-30-57; 10 learners (ladies' blouses).

Klos Manufacturing Co., Muskogee, Okla.; effective 3-7-57 to 11-30-57; 10 learners (children's clothing).

Lorch Manufacturing Co., West, Tex.; effective 3-19-57 to 11-30-57; 5 learners (dresses and sportswear).

Thunderbird Fashions, Inc., 116 North Cortez, Prescott, Ariz.; effective 3-12-57 to 11-30-57; 5 learners (women's cotton squaw dresses, etc.).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and number of learners authorized are indicated.

Bamberg Manufacturing Co., Bamberg, S. C.; effective 3-11-57 to 9-10-57; 75 learners (robes for women and children).

Form O Uth Brassiere Co., McLean, Tex.; effective 3-5-57 to 9-4-57; 60 learners (foundation garments).

Marine Garment Co., Pestalozzi and 13th Street, Highland, Ill.; effective 3-7-57 to 9-6-57; 40 learners (women's and misses' sportswear and outerwear).

Oskosh B'Gosh, Inc., Celina Division, Celina, Tenn.; effective 3-11-57 to 9-10-57; 50 learners (men's work shirts and pants).

Sport-Kraft Manufacturing Co., Inc., 419 West Third Street, Lewes, Del.; effective 3-4-57 to 9-3-57; 15 learners. Learners may not be employed at special minimum wage rates in the production of separate skirts (ladies' blouses).

Sustan Garments, Inc., Winnsboro, La.; effective 3-9-57 to 9-8-57; 20 learners (sportswear and other outerwear).

Wellington Manufacturing Co., Okolona, Miss.; effective 3-8-57 to 9-7-57; 15 learners (men's dress trousers).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.43, as amended March 1, 1956, 21 F. R. 629).

The following learner certificates were issued authorizing the employment of 5 percent of the total number of factory production workers as learners for normal labor turnover purposes.

Burlington Industries, Inc., Franklin Hosiery Plant, Franklin, N. C.; effective 3-1-57 to 9-30-57 (seamless).

Harriman Hosiery Co., Siluria Street, Harriman, Tenn.; effective 3-1-57 to 9-30-57 (seamless).

Murray Hosiery Mills Co., Murray, Ky.; effective 3-8-57 to 10-30-57 (seamless).

Triangle Hosiery Co., Inc., 510 Grimes Street, High Point, N. C.; effective 3-21-57 to 10-31-57 (seamless).

The following learner certificates were issued authorizing the employment of five learners for normal labor turnover purposes.

Damascus Hosiery Mills, Inc., Damascus, Va.; effective 3-12-57 to 10-30-57 (seamless).

Sharon Hosiery Dyeing & Finishing Co., Inc., Heller Road, Quakertown, Pa.; effective 3-11-57 to 10-30-57 (full-fashioned).

The following learner certificates were issued for plant expansion purposes. The number of learners authorized and the effective dates are indicated.

Alamance Hosiery Mills, Burlington, N. C.; effective 3-7-57 to 9-6-57; 32 learners (seamless).

Burlington Industries, Inc., Franklin Hosiery Plant, Franklin, N. C.; effective 3-1-57 to 8-31-57; 100 learners (seamless).

Claussner Hosiery Co., No. 2 Seamless Division, 30th and Adams Streets, Paducah, Ky.; effective 3-17-57 to 9-16-57; 20 learners (seamless).

Davenport Hosiery Mills, Inc., Ellijay, Ga.; effective 3-1-57 to 8-31-57; 50 learners (seamless).

Ellen Knitting Mills, Inc., Spruce Pine, N. C.; effective 3-1-57 to 8-31-57; 15 learners (seamless).

Hanover Mills, Inc., 716 South 17th Street, Wilmington, N. C.; effective 3-24-57 to 9-23-57; 75 learners (seamless).

Harriman Hosiery Co., Siluria Street, Harriman, Tenn.; effective 3-1-57 to 8-31-57; 30 learners (seamless).

Murray Hosiery Mills Co., Murray, Ky.; effective 3-8-57 to 9-7-57; 5 learners (seamless).

Newland Knitting Mills, Newland, N. C.; effective 3-17-57 to 9-16-57; 10 learners (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.30 to 522.35, as amended March 1, 1956, 21 F. R. 581).

The following learner certificates were issued authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes. The effective dates are indicated.

P. H. Hanes Knitting Co., Sparta Plant, Sparta, N. C.; effective 3-7-57 to 9-30-57 (men's and boys' undershorts).

P. H. Hanes Knitting Co., Galex Plant, Galex, Va.; effective 3-7-57 to 9-30-57 (knitted underwear).

The following certificates were issued for plant expansion purposes. The effective dates and number of learners authorized are indicated.

Oregon Manufacturing Co., 126 North Third Street, Oregon, Ill.; effective 3-8-57 to 9-7-57; five learners (cotton knit polo shirts).

Snowden, Inc., Osceola, Iowa; effective 3-10-57 to 9-9-57; five learners (women's lingerie).

Strutwear, Inc., Clarksdale, Miss.; effective 3-13-57 to 9-12-57; 10 learners (sweaters).

Each learner certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn in the manner provided in Part 528 and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 12th day of March 1957.

VERL E. ROBERTS,
Authorized Representative
of the Administrator.

[F. R. Doc. 57-2074; Filed, Mar. 18, 1957;
8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11323 etc.; FCC 57 M-219]

B. J. PARRISH ET AL.

ORDER CONTINUING ORAL ARGUMENT AND SCHEDULING HEARING CONFERENCE

In re applications of B. J. Parrish, Pine Bluff, Arkansas, Docket No. 11323, File

No. BP-8698; James S. Rivers, tr/as The Southeastern Broadcasting System, Macon, Georgia, Docket No. 11326, File No. BP-8747; James A. Noe (KNOE), Monroe, Louisiana, Docket No. 11327, File No. BP-9161; Radio Columbus, Inc. (WDAK), Columbus, Georgia, Docket No. 11328, File No. BP-9260; for construction permits.

It is ordered, This 13th day of March 1957, on the Examiner's own motion, that oral argument in the above-entitled proceeding, which is scheduled to commence at 10:00 a. m., Thursday, March 14, 1957, is continued to 1:30 p. m., Tuesday, March 19, 1957; And, it is further ordered, That, following said argument, a hearing conference of all counsel will be held.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2071; Filed, Mar. 18, 1957;
8:49 a. m.]

[Docket No. 11878; FCC 57M-212]

MOBILE COMMUNICATIONS

ORDER CONTINUING HEARING CONFERENCE

In the matter of the application of J. B. Wathen, III, d/b as Mobile Communications, Docket No. 11878, File No. 2184-C2-P-56; for a construction permit to establish a new station for two-way communications in the Domestic Public Land Mobile Radio Service at Louisville, Kentucky.

On March 11, 1957, J. B. Wathen, III filed a Motion to Extend Time for Exchange of Exhibits and to Postpone Hearing Conference; and

It appearing that no other participant in the proceeding has objection to grant of the motion;

It is ordered, This 12th day of March 1957, that the motion referred to above is granted, and the time for exchanging exhibits, now set for March 12, 1957, is extended to March 25, 1957, and the date for further hearing conference, now scheduled for March 15, 1957, is continued to March 29, 1957.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-2072; Filed, Mar. 18, 1957;
8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24FW-956]

HARDY-GRIFFIN ENGINEERING CORP.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

MARCH 12, 1957.

I. Hardy-Griffin Engineering Corporation, a Texas corporation, with its principal offices located at 6834 Long Drive, Houston, Texas, filed with the Commission on July 8, 1955, a notification on Form 1-A and offering circular relating

to a proposed offering by Benjamin & Co., 5012 Alameda, Houston, Texas, as underwriter for the issuer of 240,000 shares of its 1 cent par value common stock at the price of \$1.25 per share, an aggregate offering price of \$300,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder, which notification became effective August 23, 1955; and

II. The Commission having reasonable cause to believe that:

(1) The notification on Form 1-A is false and misleading in the following respects:

(a) In response to Item 2 thereof, it is stated that neither the issuer nor any of its affiliates presently contemplates the offering or sale of any securities in addition to the 240,000 shares covered by this notification, whereas the records of the issuer's transfer agent indicate that sales in excess of 400,000 shares were effected, including 50,000 shares of the personally-owned stock of the principal underwriter.

(2) The offering circular contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, in the following respects:

(a) Under the caption "Offering and Offering Terms," the offering circular states that if all shares offered are sold, there will be a total of 540,000 shares outstanding, of which 300,000 shares will be owned by the officers, directors and promoters of the issuer and 240,000 shares will be owned by the public investors purchasing the shares being offered under this notification. As a result of the sale of the 50,000 shares of personally-owned stock of the underwriter and the sale and issuance of additional shares by the issuer, the records of the issuer's transfer agent indicate that in excess of 300,000 shares were held by public investors at the completion of the offering of the 240,000 shares covered by this notification.

(b) The offering circular failed to disclose that in addition to the 240,000 shares shown by the Letter of Notification and the offering circular as comprising the public offering in this case, 50,000 shares shown in the offering circular as being owned by David J. Benjamin, the underwriter, were to be, and in fact were, offered to the public for his personal account.

(3) The exemption pursuant to Regulation A was not available for the offering of the issue of securities covered by the Letter of Notification and offering circular in that the amount offered exceeded the \$300,000 maximum for which an exemption under Regulation A is available.

(4) Hardy-Griffin Engineering Corporation filed an interim Form 2-A report dated July 10, 1956, reflecting the status of the offering as of June 25, 1956, but failed to file a final Form 2-A report disclosing the completion of the public offering, as required by Rule 224.

(5) The offering of securities under this notification and offering circular was made in such a manner as to operate as a fraud or deceit upon the purchaser.

III. It is ordered, Pursuant to Rule 223 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that, within twenty days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension shall be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 57-2050; Filed, Mar. 18, 1957;
8:46 a. m.]

[File No. 22-2059]

DEUTSCHE RENTENBANK-KREDITANSTALT
(LANDWIRT-SCHAFTLICHE ZENTRALBANK)
GERMAN CENTRAL BANK FOR AGRICULTURE

NOTICE OF APPLICATION FOR EXEMPTION

MARCH 13, 1957.

Notice is hereby given that Deutsche Rentenbank-Kreditanstalt (the Bank), a corporation organized and existing under the laws of Germany, has filed an application pursuant to section 304 (d) of the Trust Indenture Act of 1939 for an order exempting the Bank's Series A and Series B Debt Adjustment Debentures due January 1, 1973 to be issued under an indenture to be dated as of January 1, 1953 between the Bank and the The First National City Bank of New York as Trustee, from the provisions of section 306 (c) of the Act to the extent necessary to permit the Bank, prior to the filing by the Bank of an application for qualification of the Indenture under the Act, to submit to the holders of its outstanding bonds an offer of settlement to be made pursuant to Annex II of the London Agreement on German External Debts of February 27, 1953, between the Government of the Federal Republic of Germany, the United States of America and other countries.

Section 304 (d) of the act permits the Commission, on application by the issuer and after opportunity for hearing thereon, to enter an order exempting from any one or more provisions of the act, any security proposed to be issued by a person organized and existing under the laws of a foreign government if and to the extent it finds that compliance with such provision or provisions is not necessary in the public interest and for the protection of investors.

The application states, with respect to the request for exemption from section 306 (c) of the act to the extent necessary to permit the exchange offer to be made prior to filing an application for qualification of the indenture, as follows:

(1) The Bank has outstanding the following four series of bonds which have been in default for many years:

(i) First Lien 7 percent Farm Loan Sinking Fund Bonds of 1925, due September 15, 1950 ("First Loan");

(ii) Farm Loan Secured 6 percent Gold Sinking Fund Bonds of 1927, due July 15, 1960 ("Second Loan");

(iii) Farm Loan Secured 6 percent Gold Sinking Fund Bonds, Second Series of 1927, due October 15, 1960 ("Third Loan"); and

(iv) Farm Loan Secured Six Percent Gold Sinking Fund Bonds, Series of 1928, due April 15, 1938 ("Fourth Loan").

(2) The London Agreement provides, among other things, for the consensual settlement of foreign currency obligations of German corporate debtors by the refunding and extension of such obligations. The Bank is liable only for the repayment of bonds which may be validated pursuant to the Validation Law for German Foreign Currency Bonds of August 25, 1952.

(3) Pursuant to certain currency reforms and regulations issued thereunder the Bank is presently liable only to the extent that the proceeds of such obligations were invested in the territories now forming part of the Federal Republic of Germany or West Berlin. The respective Western Quotas applicable to the bonds of each of the four loans due are as follows:

Bonds of:	Western quota (percent)
First loan.....	63
Second loan.....	59
Third loan.....	63
Fourth loan.....	100

Claims with respect to the portions of the bonds which are not presently enforceable ("Eastern Quotas") are deferred until after reunification of Germany.

(4) The offer of settlement to be made to the holders of the outstanding bonds includes (i) a cash offer by the Bank to the holders of bonds of the Fourth Loan; (ii) an offer by Kreditanstalt für Wiederaufbau, the German Reconstruction Finance Bank ("Reconstruction Bank"), to purchase bonds and related coupons of the First, Second and Third Loans, such offer to terminate on September 30, 1957; and (iii) an offer by the Bank to refund the Western Quotas of the First, Second and Third Loans by the issuance and exchange thereof of Twenty Year Debt Adjustment Debentures, such offer not to be accepted prior to October 1, 1957.

(5) A basic condition to the use of funds of the Reconstruction Bank in the cash offer by the Bank with respect to the Fourth Loan and the purchase offer to be made by the Reconstruction Bank, is that all three offers be submitted to the bondholders not later than March 31, 1957, since funds to be used by the Reconstruction Bank will be reimbursed to it out of funds included in the budget of the Federal Republic of Germany for its

current fiscal year which expires March 31, 1957, and such funds must be committed by such date.

(6) The submission of the exchange offer to the holders of bonds of the First, Second and Third Loans is effectively prohibited by section 306 (a) of the act unless prior to such submission an application for qualification of the indenture has been filed pursuant to the act. Such filing prior to the making of the exchange offer is impracticable and not necessary. If the acceptance of the purchase offer is so favorable that the aggregate proposed amount of debt adjustment debentures permitted to be outstanding at any one time can be limited by the indenture of \$1,000,000, qualification of the indenture under the act would not be required by virtue of section 304 (a) (9) of the act. If qualification should be required it can be effected in ample time for the execution and delivery of the debentures.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to such application which is now on file in the offices of the Commission in Washington, D. C.

Notice is further given that an order granting the application and upon such conditions as the Commission may deem necessary or appropriate, may be issued by the Commission at any time on or after March 27, 1957, unless prior thereto a hearing is ordered by the Commission. Any interested persons may, not later than March 25, 1957, at 5:30 p. m., e. s. t. submit to the Commission in writing his views or any additional facts bearing upon the application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 57-2053; Filed, Mar. 18, 1957;
8:46 a. m.]

[File No. 70-3563]

PENNSYLVANIA POWER CO. AND OHIO
EDISON CO.

ORDER AUTHORIZING ISSUE AND SALE OF
COMMON STOCK BY SUBSIDIARY AND ACQUISITION
THEREOF BY HOLDING COMPANY

MARCH 13, 1957.

Ohio Edison Company ("Ohio"), a registered holding company and a public-utility company, and its subsidiary Pennsylvania Power Company ("Pennsylvania"), a public-utility company all of whose outstanding common stock is owned by Ohio, have filed a joint application and an amendment thereto pursuant to sections 6 (b) and 10 of the Public Utility Holding Company Act of

1935 ("act") with respect to the following proposed transactions:

Pennsylvania proposes to issue and sell, and Ohio proposes to buy, 70,000 shares of Pennsylvania's authorized and unissued Common Stock (par value \$30 per share) for a cash consideration of \$2,100,000.

Pennsylvania will apply the proceeds of such sale to construction expenditures or in reimbursement of its treasury therefor.

The Pennsylvania Public Utility Commission, the regulatory agency of the State in which Pennsylvania is organized and doing business, has authorized the issue and sale of Common Stock by Pennsylvania as proposed.

Due notice having been given of the filing of said application (Holding Company Act Release No. 13393), and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and the rules thereunder are satisfied and that no reservations are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that the application as amended be granted, effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said application as amended be, and hereby is, granted, effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 57-2054; Filed, Mar. 18, 1957;
8:46 a. m.]

[File No. 70-3569]

BINGHAMTON GAS WORKS ET AL.

NOTICE OF PROPOSED MERGER OF TWO WHOLLY-OWNED SUBSIDIARY COMPANIES

MARCH 13, 1957.

In the matter of Binghamton Gas Works, The Keystone Gas Company, Inc., The Columbia Gas System, Inc.; File No. 70-3569.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its wholly-owned subsidiaries Binghamton Gas Works ("Binghamton") and The Keystone Gas Company, Inc. ("Keystone") have filed a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating sections 6 (b), 9, 10, and 12 thereof and Rule U-43 thereunder as applicable to the proposed transactions, which are summarized as follows:

It is proposed that Keystone be merged and consolidated into Binghamton and that the name of Binghamton, the surviving corporation, be changed to Columbia Gas of New York, Inc. Binghamton will acquire Keystone's assets at their recorded amounts (utility plant being recorded at original cost), and will assume Keystone's liabilities including all reserves. The merger will be consummated as follows:

1. The 72,000 outstanding shares of Binghamton common stock (par value \$25.00 per share) will remain outstanding and unchanged. Binghamton will increase its authorized common stock from 80,000 shares to 140,000 shares, and will issue 22,152 of such shares to Columbia in exchange for Keystone's presently outstanding 10,000 shares of no-par common stock (plus \$14.11 in cash to avoid the issuance of a fractional share). The shares will be exchanged on the basis of their respective par and stated values;

2. The promissory notes of Keystone will remain unchanged, but by virtue of the merger will become obligations of Binghamton as the surviving corporation;

3. The earned surplus of Keystone will be carried forward and become part of the earned surplus of the surviving corporation;

4. The name of the surviving corporation will be changed to Columbia Gas of New York, Inc.

Binghamton and Keystone, both New York corporations, are engaged in the business of manufacturing, purchasing, distributing and selling gas at retail in various communities in the southern part of New York State. Their distribution systems are connected through the transmission system of Home Gas Company ("Home"), an affiliate. All of Binghamton's gas requirements, and substantially all of Keystone's gas requirements, are purchased from Home. Both companies have the same officers and management, and no change in operations is required.

It is stated that the proposed merger is a part of Columbia's corporate realignment and simplification program, designed to simplify and minimize the problems of regulating the system's rates, and that the merger will result in administrative economies which will ultimately benefit the customers of both companies, but that no change in the rates for service will be made at this time.

The New York Public Service Commission, which has jurisdiction over the proposed consolidation, has approved the several provisions thereof and the filing of an appropriate certificate of consolidation with the Secretary of State of New York, pursuant to Section 86 of the New York Stock Corporation Law, reserving jurisdiction over the journal entries to reflect said consolidation and over the costs and expenses to be incurred in connection therewith.

A statement of the fees and expenses to be paid by the several companies in connection with the proposed transactions will be filed by amendment.

Notice is further given that any interested person may, not later than March 27, 1957, at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the application-declaration, as filed or as

amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may grant exemption from its rules as provided in Rules U-20 (a) and U-100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 57-2055; Filed, Mar. 18, 1957;
8:46 a. m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 125]

WASHINGTON

DECLARATION OF DISASTER AREA

Whereas, it has been reported that from February 26, 1957 through March 1, 1957, because of the disastrous effects of flood, damage resulted to residences and business property located in certain areas in the State of Washington;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected; and

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953, as amended;

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) (1) of the Small Business Act of 1953, as amended, may be received and considered by the Office below indicated from persons or firms whose property situated in Grant County (including any areas adjacent to Grant County) suffered damage or other destruction as a result of the catastrophe above referred to:

Small Business Administration Regional Office, Burke Building, 905 Second Avenue, Seattle, Wash.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to September 30, 1957.

Dated: March 4, 1957.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 57-2059; Filed, Mar. 18, 1957;
8:47 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. F-48]

LORETZ & Co.

NOTICE OF PROPOSED ISSUANCE OF FACILITY EXPORT LICENSE

Please take notice that the Atomic Energy Commission (hereinafter "the Commission") proposes to issue, on Form AEC-250, the facility export license

described below unless within 15 days after publication of this notice in the FEDERAL REGISTER, a request for a formal hearing is filed with the Commission in the manner prescribed by § 2.102 (b) of the Commission's rules of practice (10 CFR Part 2).

1. Pursuant to section 104 (c) of the Atomic Energy Act of 1954 (hereinafter "the act") and 10 CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities," and findings by the Commission that (a) the reactor proposed to be exported is a utilization facility; (b) the issuance of a license for the export thereof is within the scope of and is consistent with the terms of an agreement for cooperation with Denmark; and (c) the issuance of an export permit to Loretz & Company will not be inimical to the common defense and security and to the health and safety of the public, the Commission will issue a license to Loretz & Company, 108 West Sixth Street, Los Angeles 14, California, for the export of a 500-watt solution-type research reactor described in the Company's license application filed January 17, 1957. The reactor is to be exported to the Danish Atomic Energy Commission of Denmark.

2. The license will be subject to the following conditions:

(a) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of the act.

(b) The license will be subject to the right of recapture or control reserved by Section 108 of the act, and to all other provisions of the act, now or hereafter in effect, and to all rules and regulations of the Commission.

(c) The license will be effective as of the date of issuance thereof and shall expire on December 31, 1957, unless sooner terminated.

Dated at Washington, D. C., this 13th day of March, 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,

Division of Civilian Application.

[F. R. Doc. 57-2088; Filed, Mar. 18, 1957; 8:52 a. m.]

[Docket No. F-51]

FOSTER WHEELER CORP.

NOTICE OF PROPOSED ISSUANCE OF FACILITY EXPORT LICENSE

Please take notice that the Atomic Energy Commission (hereinafter "the Commission") proposes to issue, on Form AEC-250, the facility export license described below unless within 15 days after publication of this notice in the FEDERAL REGISTER, a request for a formal hearing is filed with the Commission in the manner prescribed by § 2.102 (b) of the Commission's rules of practice (10 CFR Part 2).

1. Pursuant to Section 104 (c) of the Atomic Energy Act of 1954 (hereinafter "the Act") and 10 CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities," and findings by the Com-

mission that (a) the reactor proposed to be exported is a utilization facility; (b) the issuance of a license for the export thereof is within the scope of and is consistent with the terms of an agreement for cooperation with Denmark; and (c) the issuance of an export permit to Foster Wheeler Corporation will not be inimical to the common defense and security and to the health and safety of the public, the Commission will issue a license to Foster Wheeler Corporation, 165 Broadway, New York 6, N. Y., for the export of a five-megawatt tank-type research reactor described in the Corporation's license application filed January 25, 1957. The reactor is to be exported to the Danish Atomic Energy Commission of Denmark. The shipping agent specified in the license application is Pen-son & Company, 11 Broadway, New York, New York.

2. The license will be subject to the following conditions:

(a) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of the act.

(b) The license will be subject to the right of recapture or control reserved by Section 108 of the act and to all other provisions of the act, now or hereafter in effect, and to all rules and regulations of the Commission.

(c) The license will be effective as of the date of issuance thereof and shall expire on December 31, 1957, unless sooner terminated.

For the Atomic Energy Commission.

Dated at Washington, D. C., this 13th day of March 1957.

H. L. PRICE,
Director,

Division of Civilian Application.

[F. R. Doc. 57-2089; Filed, Mar. 18, 1957; 8:52 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

ANNA MARGARETHA BRANDON

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Anna Margaretha Brandon, 40 Oranjelaan, Rijswijk (Z. H.), Netherlands; Claim No. 60665; \$142.17 cash in the Treasury of the United States. Vesting Order No. 17900.

Executed at Washington, D. C., on March 12, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2061; Filed, Mar. 18, 1957; 8:48 a. m.]

ERNEST F. CARO AND NATHALIE LITTMAN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Ernest F. Caro, executor under the will of Nathalie Littman, deceased, London, England; Claims Nos. 63442 and 63443; \$8,081.46 in the Treasury of the United States. Vesting Orders Nos. 509 and 2526.

Executed at Washington, D. C., on March 12, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2062; Filed, Mar. 18, 1957; 8:48 a. m.]

EDITIONS MAX ESCHIG SOCIETE FRANCAISE D'EDITIONS MUSICALES

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Editions Max Eschig Societe Francaise d'Editions Musicales, 48 Rue de Rome, Paris, France; Claim No. 42808. All right, title, interest and claim of whatsoever kind or nature in and to every copyright, claim of copyright, license, agreement, privilege and power, and every right of whatsoever nature, including but not limited to, all monies and amounts by way of royalties, share of profits or other emolument and all causes of action accrued or to accrue relating to the catalog of Michel Dillard, doing business as La Sirene Musicale, entitled "Les Editions de la Sirene Musicale 29, Boul. Malesherbes, Paris VIII—Telephone: Anjou 14.96, vous presentant un Extrait de leur nouveau Catalogue 1930," as listed in Exhibit A of Vesting Order No. 3500 (9 F. R. 6122, June 6, 1944), to the extent owned by the claimant immediately prior to the vesting thereof by Vesting Order No. 3500.

Executed at Washington, D. C., on March 12, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2063; Filed, Mar. 18, 1957; 8:48 a. m.]

DOMENICO DI STEFANO ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Domenico Di Stefano, Ceccano (Frosinone), Italy; Giuseppe Di Stefano, 30 Via Braccio da Montone, Rome, Italy; Vittoria Clotoli Di Stefano, Ceccano (Frosinone), Italy; Pietro Di Stefano, Ceccano (Frosinone), Italy; Giuseppe Di Stefano, Ceccano (Frosinone), Italy; Lucio Di Stefano, Ceccano (Frosinone), Italy; Salvatore Di Stefano, Ceccano (Frosinone), Italy; Colomba Di Stefano, Ceccano (Frosinone), Italy; Sistina Di Stefano, Ceccano (Frosinone), Italy; Pierina Di Stefano, Ceccano (Frosinone), Italy; Giovan Battista Carcasole, Ceccano (Frosinone), Italy; Battista Carcasole, Calle Rauch No. 971, Caseros, Argentina; Colomba Carcasole, Ceccano (Frosinone), Italy; Felice Carcasole, Ceccano (Frosinone), Italy; Angela Carcasole, Ceccano (Frosinone), Italy. Claim No. 42867; \$7,381.59 in the Treasury of the

United States, returnable as follows: $\frac{1}{4}$ th of \$7,381.59 to Domenico Di Stefano; $\frac{1}{4}$ th of \$7,381.59 to Giuseppe Di Stefano, Rome, Italy; $\frac{1}{4}$ th of \$7,381.59 to Vittoria Clotoli Di Stefano, Pietro Di Stefano, Giuseppe Di Stefano of Ceccano, Lucio Di Stefano, Salvatore Di Stefano, Colomba Di Stefano, Sistina Di Stefano, and Pierina Di Stefano, jointly; $\frac{1}{4}$ th of \$7,381.59 to each of the following claimants: Giovan Battista Carcasole, Battista Carcasole, Vittoria Carcasole, Colomba Carcasole, Felice Carcasole, and Angela Carcasole. Vesting Order No. 1379.

Executed at Washington, D. C., on March 12, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2065; Filed, Mar. 18, 1957;
8:48 a. m.]

ALESSANDRO TROTTER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., in-

cluding all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Alessandro Trotter, via Cavour 15, Vittorio Veneto (Treviso), Italy; Claim No. 45526; \$201.81 in the Treasury of the United States. All right, title, interest and claim of whatsoever kind or nature in and to every copyright, claim of copyright, license, agreement, privilege, power and every right of whatsoever nature, including, but not limited to all monies and amounts, by way of royalties, share of profits or other emolument, and all causes of action accrued or to accrue relating to the book entitled "Sylloge Fungorum Omnium Hucusque Cognitorum . . . curante Alex. Trotter. Abelinni, coheredum Saccardo, 1881-1931. vol. 25 (Supplementum Universale, Part 10)," as listed in Exhibit A of Vesting Order No. 500A-79 (9 F. R. 3817, April 8, 1944), to the extent owned by Alessandro Trotter, immediately prior to the vesting thereof by Vesting Order No. 500A-79.

Executed at Washington, D. C., on March 12, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2064; Filed, Mar. 18, 1957;
8:48 a. m.]